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## Rules, Regulations, Orders

### TITLE 14—CIVIL AVIATION

#### CIVIL AERONAUTICS AUTHORITY

AMENDMENT NO. 2 OF CIVIL AIR REGULATIONS AS ADOPTED BY THE AUTHORITY AND ISSUED PURSUANT TO REGULATION 601-A-1, PROMULGATED AUGUST 20, 1938, AMENDING PART 24, MECHANIC RATING

At a session of the Civil Aeronautics Authority held at its office in Washington, D. C., on the 19th day of December 1938.

Acting pursuant to the authority vested in it by the Civil Aeronautics Act of 1938, particularly Sections 205 (a) and 601 (a) of said Act, and finding that its action is desirable in the public interest and is necessary to carry out the provisions of, and to exercise and perform its powers and duties under said Act, the Civil Aeronautics Authority hereby amends Regulation 601-A-1,<sup>1</sup> Safety Rules, and the Civil Air Regulations adopted thereunder, as follows:

By amending Part 24, Mechanic Rating, Civil Air Regulations so that the same shall read as follows:

#### PART 24—MECHANIC RATING

- 24.0 Provision for rating.
- 24.1 Minimum requirements.
- 24.10 Aircraft mechanic rating.
- 24.11 Aircraft engine mechanic rating.
- 24.2 Mechanic competency certificate.
- 24.20 Provision for issuance.
- 24.21 Application.
- 24.22 Issuance.
- 24.23 Display.
- 24.24 Duration.
- 24.25 Renewal.
- 24.26 Non-transferability.
- 24.27 Suspension or revocation.
- 24.28 Surrender.
- 24.29 Re-application.
- 24.3 Examinations and tests.
- 24.30 General.
- 24.31 Time and place.
- 24.32 Inspection.
- 24.33 Standard of performance.
- 24.34 Reports.
- 24.4 Mechanic regulations.
- 24.40 General prohibition.

24.0 Provision for rating. Pursuant to the provisions of the Civil Aeronautics Act

of 1938, empowering the Civil Aeronautics Authority to issue airman certificates specifying the capacity in which the holders thereof are authorized to serve as airmen in connection with aircraft, and requiring the Authority to prescribe such reasonable rules and regulations governing practices, methods and procedure as the Authority may find necessary to provide adequately for safety in air commerce, airmen engaging as mechanics in the navigation of aircraft while under way or who are directly in charge of the inspection, maintenance, overhaul, or repair of aircraft, aircraft engines, propellers, or appliances (except parachutes), will be rated in accordance with the provisions of the following regulations.

24.00 Mechanic ratings will be as follows:

- (a) Aircraft Mechanic Rating
- (b) Aircraft Engine Mechanic Rating

24.1 Minimum requirements. To be eligible for a mechanic competency rating, an applicant shall comply with the following minimum requirements prescribed for the particular rating sought.

24.10 Aircraft mechanic rating.—To be eligible for an aircraft mechanic rating, an applicant shall comply with the following minimum requirements.

24.100 Age. Applicant shall be at least 18 years of age.

24.101 Character. Applicant shall be of good moral character.

24.102 Citizenship. Applicant may be a citizen of any nationality.

24.103 Education. Applicant shall be able to read, speak, write and understand the English language.

24.104 Aeronautical knowledge. Applicant shall have theoretical and practical knowledge of aircraft structure and rigging, including the control systems, and aircraft appliances, shall know how to properly inspect, maintain, overhaul, and repair the same, and shall be familiar with the provisions of Parts 00, 01, 02, 04, 14, 15, 18 and 24.

24.105 Aeronautical experience. Applicant shall have had at least one year of practical experience, or what is deemed by the Authority to be its equivalent, in the construction, inspection, maintenance

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<sup>1</sup> 3 F. R. 2051 DL.





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nance, overhaul, or repair of aircraft or aircraft appliances, or both. Compliance with § 24.115 shall not be deemed equivalent.

**24.106 Aeronautical skill.** Applicant shall satisfactorily demonstrate, by means of written, oral and practical tests, his ability with respect to the subject matters prescribed in § 24.104.

**24.11 Aircraft engine mechanic rating.** To be eligible for an aircraft engine mechanic rating, an applicant shall comply with the following minimum requirements:

- 24.110 Age.** Same as in § 24.100.
- 24.111 Character.** Same as in § 24.101.
- 24.112 Citizenship.** Same as in § 24.102.
- 24.113 Education.** Same as in § 24.103.

**24.114 Aeronautical knowledge.** Applicant shall have theoretical and practical knowledge of aircraft engines, propellers, and their appliances, including ignition systems, shall know how to properly inspect, maintain, overhaul and repair the same, and shall be familiar with the provisions of Parts 00, 01, 02, 04, 13, 14, 15, 18 and 24.

**24.115 Aeronautical experience.** Applicant shall have had at least one year

of practical experience, or what is deemed by the Authority to be its equivalent, in the construction, inspection, maintenance, overhaul, or repair of aircraft engines, propellers, and their appliances, or either or any of the same. Compliance with § 24.105 shall not be deemed equivalent.

**24.116 Aeronautical skill.** Applicant shall satisfactorily demonstrate, by means of written, oral and practical tests, his ability with respect to the subject matters prescribed in § 24.114.

**24.2 Mechanic competency certificate.**

**24.20 Provision for issuance.** An appropriate mechanic certificate of competency will be issued to a natural person by the Authority upon approval of an application made and satisfactory proofs submitted, and if, upon inspection and examination, is found by the Authority to meet the appropriate minimum requirements prescribed in § 24.1 and is, therefore, rated as competent to engage as a mechanic in the navigation of aircraft while under way or to be in direct charge of the inspection, maintenance, overhaul and repair of aircraft and aircraft appliances, or aircraft engines, propellers, and their appliances, as classified by Section 24.00 (a) and (b).

**24.200** Each holder of a valid engine mechanic's license or a valid airplane mechanic's license on November 1, 1937 may perform service pursuant to such authority until the expiration thereof, and then, upon compliance with the provisions for renewal herein, have issued to him a mechanic competency certificate with an aircraft mechanic rating or an aircraft engine rating thereon, as the case may be, as provided for herein.

**24.201** Each holder of a valid mechanic certificate of competency on the effective date of this Part may perform service as if such certificate had been issued pursuant to this Part.

**24.202** Each holder of a valid mechanic's license or mechanic certificate, whenever issued, shall be subject to re-examination at any time by the Authority in any theoretical or practical test prescribed as requisite for certificates issued pursuant to this Part.

**24.203 Identification Card.** In the discretion of the Authority, an appropriate mechanic's identification card will be issued with any mechanic certificate.

**24.21 Application.** Application for a mechanic certificate, subscribed under oath, shall be made to the Authority upon a form supplied for that purpose.

**24.210 Application to amend.** When any change in a mechanic competency certificate is desired, the applicant shall file a written request therefor with the Authority or may make oral or written request of the local inspector of the Authority.

**24.211 Proceeding to amend.** A proceeding to amend a mechanic competency rating may be instituted by the Authority when, in its opinion, the mechanic is no longer competent in respect

of some matter specified in the certificate. Notice of such proceeding shall be addressed to the mechanic with opportunity for a hearing. In the interim, the certificate may be suspended in whole or in part by the Authority. Following the hearing, the Authority may issue a re-rating as to competency.

**24.22 Issuance.** Upon approval of an application duly made, proofs submitted, and examinations and tests satisfactorily completed, a mechanic certificate of competency will be issued in an appropriate form.

**24.220 Temporary certificate.** Following application made for a mechanic certificate of competency, but prior to approval thereof and issuance of the certificate, a temporary mechanic certificate may be issued by the Authority. Likewise, for the period of time elapsing between application for renewal of a certificate and the issuance of the renewal, a temporary certificate may be issued by the Authority.

**24.23 Display.** A mechanic certificate shall be kept in the personal possession of the mechanic at all times when he is serving in connection with aircraft, and shall be presented upon the demand of any passenger in, or owner of, such aircraft upon which such mechanic has worked, or of any authorized official or employee of the Authority or of any State or municipal official charged with the duty of enforcing local laws or regulations involving Federal compliance, or upon the reasonable request of any other person.

**24.24 Duration.** A mechanic certificate, unless sooner suspended or revoked in accordance with the provisions of § 24.27, will remain in force for two years after the date of issue.

**24.25 Renewal.** A mechanic certificate may be renewed, for a like period as the original certificate, upon application within 30 days prior to the expiration thereof and upon satisfactory showing that, during the term of the last certificate, the holder has rendered any type of service, under his certificate, during at least one-half of the term thereof, and that he complies with all of the appropriate minimum requirements prescribed in § 24.1. The service so rendered shall be described in written statement under oath subscribed by the applicant.

**24.26 Non-transferability.** A mechanic certificate is not transferable.

**24.27 Suspension or revocation.** A mechanic certificate may be suspended or revoked by the Authority by reason of any of the following, on the part of the holders thereof:

**24.270 (a)** Any false statement in an application for a certificate or any renewal thereof, or in any report required by the Authority.

**24.271 (b)** Using or displaying the certificate for any fraudulent purpose.

**24.272 (c)** Refusal to exhibit the certificate upon proper demand.

**24.273 (d)** Carelessness or inattention to duty.



24.274 (e) Any demonstration of incompetency in the inspection, maintenance, overhaul, or repair of aircraft, aircraft engines, propellers, or their appliances.

24.275 (f) Being under the influence of, or using, or having personal possession of intoxicating liquor, cocaine, or other habit-forming drugs while on duty.

24.276 (g) Doing any act in connection with aircraft, aircraft engines, propellers, or their appliances, which is contrary to the public safety or interest, or detrimental to the morale of airmen.

24.277 (h) Violation of any provisions of the Civil Aeronautics Act of 1938 or of any of the rules or regulations duly issued thereunder.

24.28 *Surrender.* Upon notice of the revocation by the Authority of a mechanic certificate, or upon demand for such certificate in the event of its suspension by the Authority, the holder thereof shall immediately deliver such certificate to the Authority. Notwithstanding any failure or refusal to surrender a mechanic certificate, it, in the case of revocation, shall be deemed canceled and of no further force or effect, and in the case of suspension, shall be deemed of no force or effect, during the period of suspension.

24.29 *Re-application.* An applicant for a mechanic certificate of competency who has failed to successfully accomplish the prescribed theoretical or practical tests may apply for reexamination at any time after the expiration of 90 days, from the date of such failure.

24.3 *Examinations and tests.*

24.30 *General.* The examinations and tests prescribed in this Part will be conducted by a duly authorized inspector of the Authority.

24.31 *Time and place.* All examinations and tests will be held at such times and places as the Authority may provide.

24.32 *Inspection.* The applicant for any mechanic certificate of competency shall offer full cooperation in respect of any inspection and examination which may be made of said applicant upon proper demand by any authorized representative of the Authority prior or subsequent to the issuance of a mechanic certificate of competency.

24.33 *Standard of performance.* All practical or theoretical examinations and tests shall be accomplished to the satisfaction of the Authority, and the minimum passing grade in any subject of examination or test shall be 70 per cent.

24.34 *Reports.* The person giving any examination or test in behalf of the Authority will promptly report the result thereof to the Authority.

24.4 *Mechanic regulations.* The following rules pertaining to mechanic certificates will govern mechanic services in relation to aircraft.

24.40 *General prohibition.* No person shall engage as a mechanic in the navigation of aircraft while under way or be directly in charge of the inspection, maintenance, overhaul, or repair of air-

craft, aircraft engines, propellers, or appliances except parachutes), unless said person is possessed of a valid airman certificate certifying his competency to serve in such capacity.

For the Authority.

[SEAL]

PAUL J. FRIZZELL,  
Secretary.

[P. R. Doc. 38-3846; Filed, December 20, 1938;  
1:18 p. m.]

## TITLE 19—CUSTOMS DUTIES

### BUREAU OF CUSTOMS

[T. D. 49764]

#### COLLECTORS OF CUSTOMS INSTRUCTED RELATIVE TO THE DUTIABLE AND TAXABLE STATUS OF IMPORTED SAWED TIMBER

To Collectors of Customs and Others Concerned:

Reference is made to T. D. 49662, approved July 27, 1938,<sup>1</sup> in which collectors of customs were instructed to continue the existing practice of collecting estimated duties and import taxes on sawed timber under the provision for lumber in section 601 (c) (6) of the Revenue Act of 1932 (U. S. C. title 26, foot-note at end of chap. 20), pending the issuance of a ruling as to the taxable status of such timber.

The decision of the United States Customs Court in the case of *Laurence Phillips Lumber Co. v. United States*, (1938) T. D. 49624, holding certain timber 6" x 6" or over in cross section, and not less than 6" on any one side, to be excluded from the provision for lumber, has become final in the absence of an appeal and the Treasury Department acquiesces therein. Under the second proviso to item 601 (c) (6) of the Canadian Trade Agreement (49 Stat. 3982), concluded on November 15, 1935, the provisions of article IV and schedule II of that agreement are, therefore, not applicable to sawed timber of the dimensions above described. In view of the Department's ruling in T. D. 49662 to the effect that the second sentence of section 704 (a) of the Revenue Act of 1938 (Public. No. 554, 75th Congress) will not be effective unless and until certain obligations assumed in the Canadian Trade Agreement are terminated otherwise than in connection with the undertaking by the United States of new obligations of like effect, no import tax should be imposed under section 601 (c) (6) of the Revenue Act of 1932 with respect to sawed timber entered for consumption or withdrawn from warehouse for consumption prior to the expiration of the effective period of article IV of the trade agreement concluded between the United States and Canada on November 15, 1935. Under the terms of the trade agreement between the United States and Canada, signed November 17, 1938, as proclaimed by the President on November 25, 1938,

article IV of the trade agreement concluded between the United States and Canada on November 15, 1935, as proclaimed by the President on December 2, 1935, will be inoperative on and after January 1, 1939.

Sawed timber entered for consumption or withdrawn from warehouse for consumption before January 1, 1939, if properly dutiable under paragraph 401 of the Tariff Act of 1930 (U. S. C. title 19, sec. 1001, par. 401) and excluded from the operation of the import tax provided in section 601 (c) (6) of the Revenue Act of 1932 pursuant to the decision of the Customs Court in T. D. 49624, is not subject to the reduction provided in item 401 of the Canadian Trade Agreement (49 Stat. 3978), signed November 15, 1935. Such sawed timber should be assessed with duty at the rate of \$1 per thousand feet, board measure, under the provisions of paragraph 401 of the Tariff Act of 1930, if covered by unliquidated entries or by liquidated entries as to which timely protest has been or shall be filed against the assessment of the import tax under section 601 (c) (6) of the Revenue Act of 1932.

Item 601 (c) (6) of the trade agreement between the United States and Canada, signed on November 17, 1938,<sup>2</sup> provides for "lumber, including sawed timber", thereby recognizing the definition of lumber contained in the second sentence of section 704 (a) of the Revenue Act of 1938. The Department is accordingly of the opinion that there is no conflict between the amendment contained in the second sentence of section 704 (a) of the Revenue Act of 1938 and article VII of the above-mentioned trade agreement, which will be effective on and after January 1, 1939. Therefore, as to merchandise entered for consumption or withdrawn from warehouse for consumption on or after January 1, 1939, the term "lumber", as used in section 601 (c) (6) of the Revenue Act of 1932, is held to include sawed timber.

[SEAL]

JAMES H. MOYLE,  
Commissioner of Customs.

Approved, December 15, 1938.

STEPHEN B. GIBBONS,  
Acting Secretary of the Treasury.

[P. R. Doc. 38-3854; Filed, December 21, 1938;  
11:39 a. m.]

## TITLE 22—FOREIGN RELATIONS

### DEPARTMENT OF STATE

#### RULES OF PROCEDURE GOVERNING THE ISSUANCE OF LICENSES FOR THE EXPORTATION OF TIN-PLATE SCRAP DURING THE CALENDAR YEAR 1939

DECEMBER 16, 1938.

In furtherance of the purposes of the Act of Congress approved February 15, 1936, which, as stated therein, are:

to protect, preserve, and develop domestic sources of tin, to restrain the depletion of

<sup>1</sup> 3 F. R. 1888 DI.

<sup>2</sup> 3 F. R. 2808 DI.



domestic reserves of tin-bearing materials, and to lessen the present costly and dangerously dependent position of the United States with respect to resources of tin.

and in order to assure in the public interest the fair and equitable consideration referred to in Section 2 of the Act which reads as follows:

There shall not be exported from the United States after the expiration of sixty days from the enactment of this Act any tin-plate scrap, except upon license issued by the President of the United States. The President is authorized to grant licenses upon such conditions and regulations as he may find necessary to assure in the public interest fair and equitable consideration to all producers of this commodity.

The Acting Secretary of State, acting under and by virtue of the authority vested in him by Executive Order No. 7297 of February 16, 1936, hereby prescribes, by and with the advice and consent of the National Munitions Control Board, the following rules of procedure to govern the issuance of licenses for the exportation of tin-plate scrap during the calendar year 1939 under the regulations governing the export of that commodity prescribed on December 7, 1936:

(1) *Requests for allotments.*—Each producer of tin-plate scrap who desires to export that commodity during the calendar year 1939, as well as every producer whose scrap is sold to and ultimately exported by third parties, should submit to the Secretary of State not later than January 10, 1939, a request for an allotment, specifying in long tons the quantity of tin-plate scrap which he desires to export or to sell for export between January 11 and December 31, 1939.

(2) *Original allotments.*—Allotments will be granted to producers of tin-plate scrap only and will be assigned on January 11, 1939, to producers whose applications have been submitted in accordance with the provisions of paragraph (1). Allotments will be based on the individual producer's request therefor with the provision that no allotment of more than 25 long tons shall exceed in amount 20 percent of the quantity of tin-plate scrap produced by him during the calendar year 1937. Requests for allotments of 25 long tons or less may be granted in full, without reference to the quantity of tin-plate scrap produced during the calendar year 1937, provided the producer concerned presents convincing evidence, in the form of a sworn statement, establishing that he will, so far as can be foreseen, during the calendar year 1939, produce at least the equivalent of the allotment which he requests. No allotment assigned under the provisions of this paragraph to any one producer, including his affiliated or associated companies, shall exceed 2,000 long tons.

(3) *Sworn statement of 1937 production.*—No producer shall be eligible to

receive an allotment under the provisions of paragraph (2) until the Secretary of State has received from him a sworn statement setting forth the quantity of tin-plate scrap, in long tons, produced by him during the calendar year 1937. Sworn statements submitted under the provisions of this paragraph shall include the name and address of the producer, the name and location of each factory, and the quantity of tin-plate scrap produced at each factory.

(4) *Apportionment of total allotments.*—In the event that it shall be necessary, in order that the quantity of tin-plate scrap to be exported during the calendar year 1939 shall not exceed the total figure to be agreed upon by the National Munitions Control Board, such total shall be apportioned among the applicants for allotments on the basis of 1937 production, with the provision that no allotment shall exceed the quantity specified in the individual producer's request therefor. If an apportionment is unnecessary, further allotments may be granted after January 11 in the order of the receipt of requests therefor until the total figure referred to has been exhausted.

(5) *Additional allotments.*—In the event that conditions then existing shall warrant such action, additional allotments may be granted after July 1, 1939, upon such conditions as may be agreed upon by the National Munitions Control Board and announced by the Secretary of State.

(6) *Fair and equitable consideration.*—An allotment may be granted at any time during the calendar year 1939, without regard to previous assignments of allotments, to any producer of tin-plate scrap who presents to the National Munitions Control Board, through the Secretary of State, convincing evidence that he is not receiving the fair and equitable consideration referred to in Section 2 of the Act approved February 15, 1936. Allotments assigned under the provisions of this paragraph shall be granted in such quantities as will assure in the public interest fair and equitable consideration to the producer concerned. All applications for allotments under the provisions of this paragraph shall be accompanied by sworn statements, in quintuplicate, setting forth complete and detailed information in support thereof.

(7) *Licenses.*—No tin-plate scrap may be exported unless a license authorizing such export shall have been issued by the Secretary of State. Licenses may be issued to any producer who has been assigned an allotment or to any other person or persons authorized by such producer to export tin-plate scrap under his allotment, provided that licenses will not be issued during the first six months of the calendar year for the exportation of tin-plate scrap in quantities in excess of 50 percent of any allotment of 50 long tons or more.

(8) *Licenses issued to persons other than producers of tin-plate scrap.*—Any producer who has received an allotment may, if he so desires, authorize any other person or persons to apply for license to export under his allotment tin-plate scrap produced at his factory or factories. The Department of State should be informed promptly of such authorizations when made. Persons other than producers should, in submitting applications for license, assure themselves that an allotment has been assigned covering the particular tin-plate scrap which they desire to export and they should include in the application a statement setting forth the name and address of the factory or factories at which the tin-plate scrap was produced and the quantity produced at each factory.

(9) *General statement.*—As stated in paragraph (3) of the regulations governing the exportation of tin-plate scrap, the Secretary of State will issue export licenses to cover proposed shipments of tin-plate scrap when, in the opinion of the National Munitions Control Board, the issuance of such licenses may be consistent with the purposes of the Act approved February 15, 1936. The National Munitions Control Board may revoke, cancel, or modify at any time allotments or licenses granted under the rules of procedure herein announced and may modify these rules of procedure whenever, in its opinion, such action is required in order to carry out the purposes of the Act.

[SEAL]

SUMNER WELLES,  
Acting Secretary of State.

[F. R. Doc. 38-3847; Filed, December 21, 1938;  
9:44 a. m.]

## TITLE 29—LABOR

### WAGE AND HOUR DIVISION

PART 536—REGULATIONS DEFINING THE TERM "AREA OF PRODUCTION" AS USED IN SECTION 7 (C) AND IN SECTION 13 (A) (10) OF THE FAIR LABOR STANDARDS ACT

The following amendments to Regulations—Part 536—(Regulations Defining the Term "Area of Production" as Used in Section 7 (c) and in Section 13 (a) (10) of the Fair Labor Standards Act)<sup>1</sup> are hereby issued. The first of said amendments amends Section 536.1 by adding an alternative paragraph numbered "(c)" applicable to dry edible beans. The second of said amendments amends Section 536.2 by adding an alternative paragraph numbered "(c)" applicable to dry edible beans. The third of said amendments amends Section 536.3. Said amendments shall become effective upon my signing the original and upon the publication thereof in the FEDERAL REGISTER, and shall be in force

<sup>1</sup> 1 F. R. 2123.

<sup>2</sup> 3 F. R. 2536 DI.



and effect until repealed by regulations hereafter made and published.

Signed at Washington, D. C., this 20th day of December, 1938.

ELMER F. ANDREWS,  
Administrator.

SEC. 536.1 "Area of production" as used in Section 7 (c) of the Fair Labor Standards Act. An employer shall be regarded as engaged in the first processing of any agricultural or horticultural commodity during seasonal operations within the "area of production" within the meaning of Section 7 (c)

(a) if the first processing is conducted on a farm and is performed on agricultural or horticultural commodities produced exclusively on such farm, or

(b) if the commodities processed are obtained from farms in the immediate locality of the processing establishment and the number of employees there engaged in such processing does not exceed seven, or

(c) with respect to dry edible beans, if he is so engaged in an establishment which is a first concentration point for the processing of such beans into standard commercial grades for marketing in their raw or natural state. As used in this subsection (c), "first concentration point" means a place where such beans are first assembled from nearby farms for such processing but shall not include any establishment normally receiving a portion of the beans assembled from other first concentration points.\*

SEC. 536.2 "Area of production" as used in Section 13 (a) (10) of the Fair Labor Standards Act. An individual shall be regarded as employed in the "area of production" within the meaning of Section 13 (a) (10), in handling, packing, storing, ginning, compressing, pasteurizing, drying, preparing in their raw or natural state, or canning of agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products

(a) if he is engaged in such work on a farm and on agricultural or horticultural commodities produced exclusively on such farm, or

(b) if the agricultural or horticultural commodities are obtained by the establishment where he is employed from farms in the immediate locality and the number of employees in such establishment does not exceed seven, or

(c) with respect to dry edible beans, if he is so engaged in an establishment which is a first concentration point for the processing of such beans into standard commercial grades for marketing in their raw or natural state. As used in this subsection (c), "first concentration point" means a place where such beans are first assembled from nearby

farms for such processing but shall not include any establishment normally receiving a portion of the beans assembled from other first concentration points.\*

SEC. 536.3 *Petition for amendment of regulations.* Any interested persons or association wishing a revision of the foregoing regulations may make application to the Administrator in writing to amend Sections 536.1 and 536.2. If upon inspection of the petition the Administrator believes that reasonable cause for amendment of the regulations is set forth, the Administrator will either schedule a hearing with due notice to interested parties or will make other provision for affording interested parties an opportunity to present their views either in support of or in opposition to the proposed changes.\*

[F. R. Doc. 38-3855; Filed, December 21, 1938;  
11:45 a. m.]

## TITLE 30—MINERAL RESOURCES

### NATIONAL BITUMINOUS COAL COMMISSION

[General Docket No. 15]

#### ESTABLISHMENT OF MINIMUM PRICES AND MARKETING RULES AND REGULATIONS

#### PROPOSAL OF RULES AND REGULATIONS INCIDENTAL TO SALE AND DISTRIBUTION OF COAL BY CODE MEMBERS SUBMITTED BY DISTRICT BOARDS FOR DISTRICT NOS. 14 AND 15

At a session of the National Bituminous Coal Commission held at its offices in Washington, D. C., on the 17th day of December 1938.

The Commission, on the 25th day of May, 1938,<sup>1</sup> having instituted the above-entitled proceedings for the purpose of carrying out the provisions of sub-sections (a) and (b) of Section 4, Part II, of the Bituminous Coal Act of 1937,<sup>2</sup> and having on the 20th day of August, 1938, by its Order No. 250,<sup>3</sup> directed the District Boards for Districts Nos. 14 and 15 to propose reasonable rules and regulations incidental to the sale and distribution of coal by the code members of said districts in conformity with the provisions of Section 4 II (a) of the Act,

And said District Boards Nos. 14 and 15 having submitted such proposed rules and regulations, together with the reasons upon which they were predicated, to the Commission in accordance with the provisions of said Order No. 250, the Commission, by its Order entered herein on the 11th day of October, 1938, and by its Notice of Postponement entered on the 21st day of October, 1938, and its Notice and Order for Hearing dated October 29, 1938, directed that a hearing on said proposals be held in the Hearing Room of the Commission in the Morrison

Hotel, Chicago, Illinois, commencing on the 14th day of November, 1938, at 10 o'clock, A. M., for the purpose of receiving evidence to enable the Commission to approve such proposed marketing rules and regulations, or to enable the Commission to modify the proposed rules and regulations, as provided in Section 4 II (a) of the Act, in order that such proposed marketing rules and regulations, as approved or modified, as the case may be, may serve as the basis for the coordination provided by Section 4 II (b) of the Act, and

After reasonable public notice having been given thereof, said Hearing was commenced at the time and place stated and concluded on the 6th day of December, 1938, at which time all interested parties were afforded a full opportunity to be heard, and the evidence being adduced, the Commission being fully advised in the premises has made Findings of Fact and Conclusions relating to and which are by this reference incorporated herein and made a part hereof, and

The Commission having determined that the rules and regulations as set forth in the said Findings of Fact and Conclusions for said Districts Nos. 14 and 15 respectively are reasonable and are not inconsistent with the requirements of Section 4 of the Act, and do conform to the standards of fair competition established by Section 4 of the Act, and form a proper basis for the coordination provided for by Section 4 II (b) of the Act,

Now, therefore, Pursuant to the provisions of the Bituminous Coal Act of 1937, the National Bituminous Coal Commission hereby approves, for the purpose of coordination, the "Rules and Regulations incidental to the sale and distribution of coal by code members," as the same are set forth in the "Findings of Fact and Conclusions" by the Commission for said Districts Nos. 14 and 15 respectively filed this date in the Office of the Secretary of the Commission, Washington, D. C.

The Secretary of the Commission is hereby directed to cause a copy of this Order to be published forthwith in the FEDERAL REGISTER, and to cause a copy hereof, together with the "Findings of Fact and Conclusions" of the Commission, above referred to, to be mailed to the Consumers' Counsel, the Secretary of each District Board, to all parties who have filed their appearances in the hearing relating to the aforesaid proposals, and to cause copies thereof to be made available for inspection by interested parties at the Office of the Secretary of the Commission, Washington, D. C., and at the office of each Statistical Bureau of the Commission.

By order of the Commission.

Dated this 17th day of December 1938.

[SEAL] F. WITCHER McCULLOUGH,  
Secretary.

[F. R. Doc. 38-3836; Filed, December 20, 1938;  
12:15 p. m.]

\* Section 536.1 through Section 536.3, as amended December 20, 1938, issued under the authority contained in Sections 7 (c) and 13 (a) (10), 52 Stat. 1060.

<sup>1</sup> 3 F. R. 1300, 1226 DI.

<sup>2</sup> 50 Stat. 72.

<sup>3</sup> 3 F. R. 2058 DI.



[General Docket No. 15]

ESTABLISHMENT OF MINIMUM PRICES AND  
MARKETING RULES AND REGULATIONSPROPOSALS OF MINIMUM PRICES SUBMITTED  
BY DISTRICT BOARDS FOR DISTRICTS NOS.  
14 AND 15 (COMPRISING MINIMUM PRICE  
AREAS NOS. 4 AND 5)

At a session of the National Bituminous Coal Commission held at its offices in Washington, D. C., on the 17th day of December 1938.

The Commission, on the 25th day of May, 1938,<sup>1</sup> having instituted the within proceedings entitled "In the Matter of the Establishment of Minimum Prices and Marketing Rules and Regulations, General Docket No. 15," for the purpose of carrying out the provisions of subsections (a) and (b) of Section 4, Part II, of the Bituminous Coal Act of 1937,<sup>2</sup> and thereafter, upon the 19th day of August, 1938, after Notice and Hearing, having determined the weighted average cost, as provided in Section 4, II (a) of the Act, for Minimum Price Areas Nos. 4 and 5 respectively, did, on the 20th day of August, by Order No. 249,<sup>3</sup> direct the District Boards for District Nos. 14 and 15, within Minimum Price Areas Nos. 4 and 5 to propose minimum prices in conformity with the provisions of Section 4, II (a) of the Act, and, in accordance with the rules and regulations prescribed by said Order No. 249, and

Said District Boards Nos. 14 and 15 having, thereafter, proposed such minimum prices, the Commission, by its Order entered in this proceeding on October 11, 1938, and Notice of Postponement issued by the Commission on the 21st day of October, 1938, and by Notice and Order of the Commission dated October 29, 1938, directed that a hearing on such proposals be held in the Hearing Room of the Commission in the Morrison Hotel, Chicago, Illinois, commencing on the 14th day of November, 1938, at the hour of 10 o'clock, a. m., for the purpose of receiving evidence relating to said proposals to enable the Commission to approve such proposed minimum prices, or to enable the Commission to modify such proposed minimum prices, so as to conform them to the requirements of Section 4, II (a) of the Act, in order that such proposed minimum prices, as approved, or modified, as the case may be, may serve as the basis for the coordination, as provided by Section 4, II (b) of the Act, and Reasonable public notice thereof having been given, said Hearing was commenced at the time and place stated, and concluded on the 6th day of December, 1938, at which Hearing all in-

terested parties were afforded full opportunity to be heard, and

The evidence being adduced, and the Commission being fully advised in the premises, and upon consideration thereof, the Commission made Findings of Fact and Conclusions relating to the proposals of minimum prices submitted by said District Boards Nos. 14 and 15, which Findings of Fact and Conclusions are on file in the office of the Secretary of the Commission at Washington, D. C., and by this reference are incorporated herein and made a part hereof, and

Included in the said Finding of Fact and Conclusions, relating to each of the aforesaid districts, is an appendix entitled "Schedule of Minimum Prices as Modified and Approved to Serve as a Basis for Coordination," which schedule embraces all modifications which the Commission determined to be necessary to conform the proposals of the respective districts to the requirements of Section 4, II (a) of the Act, and which the Commission has determined to be the proper basis to be used by the respective districts for the coordination provided for in Section 4, II (b) of the Act;

Now, therefore, Pursuant to the provisions of the Bituminous Coal Act of 1937, the National Bituminous Coal Commission orders and directs:

1. That in the coordination of minimum prices as provided by Section 4, II (b) of the Act, to be hereafter directed by subsequent Order of the Commission, the District Boards for Districts Nos. 14 and 15 will take, as a basis thereof, the schedule as approved herein and described as follows:

*District No. 14.*—Appendix to the Findings for District No. 14, as above referred to, entitled "Schedule of Minimum Prices as Modified and Approved to Serve as a Basis for Coordination."

*District No. 15.*—Appendix to the Findings for District No. 15, as above referred to, entitled "Schedule of Minimum Prices as Modified and Approved to Serve as a Basis for Coordination."

2. The Secretary of the Commission be, and he is hereby directed to cause a copy of this Order to be published forthwith in the FEDERAL REGISTER, and to cause a copy hereof, together with the Findings of Fact, including the appendices thereto, for Districts Nos. 14 and 15, to be mailed to the Consumers' Counsel, to the Secretary of each District Board, to all interested parties who have entered their appearances in the hearing relating to said proposals, and to make copies of this Order and Findings of Fact, including the appendices thereto, available for inspection by interested parties at the office of the Secretary of the Commission, Wash-

ington, D. C., and at the office of each Statistical Bureau of the Commission.

By order of the Commission.

Dated this 17th day of December 1938.

[SEAL] F. WITCHER McCULLOUGH,  
Secretary.

[Docket No. 15]

MINIMUM PRICES AND MARKETING RULES  
AND REGULATIONS AS PROPOSED AND SUB-  
MITTED BY DISTRICT BOARDS FOR DIS-  
TRICTS 9, 10, 11, 12, 14, AND 15 WITHIN  
MINIMUM PRICE AREAS 2, 4, AND 5

FINDINGS AS TO THE FACTS AND CONCLUSIONS  
OF THE COMMISSION

Pursuant to the provisions of an Act of Congress approved April 26, 1937, entitled "An Act to regulate interstate commerce in bituminous coal and for other purposes" (Public No. 48, 75th Congress, 1st Sess.), known as the "Bituminous Coal Act of 1937", and hereinafter referred to as the "Act," the National Bituminous Coal Commission, hereinafter referred to as the "Commission," under and by virtue of the authority granted in Section 4 II (a) of the Act, on the 20th day of August 1938, issued its Orders No. 249 and No. 250 ordering and directing the District Boards for Districts 9, 10, 11, 12, 13, 14, and 15 to propose to the Commission minimum prices free on board transportation facilities at the mines for kinds, qualities and sizes of coal produced in said districts and reasonable rules and regulations incidental to the sale and distribution of coal by code members within said districts, the minimum prices and marketing rules and regulations to be proposed by the District Board for District 13 to be limited to that part of District 13 known as Minimum Price Area 3, said proposals to be submitted to the Commission on or before the 14th day of September 1938.

Said orders were published in the FEDERAL REGISTER under date of August 23, 1938, and copies of said orders were mailed to each of the code members within said districts and to each of the Secretaries of the District Boards within Minimum Price Areas 2, 3, 4 and 5, as directed in said orders.

Order No. 249 directed each of the aforesaid District Boards to propose to the Commission minimum prices f. o. b. transportation facilities at the mines for kinds, qualities, and sizes of coal produced by the code members in their respective districts, and to propose such classification of coal and price variations as to mines, consuming market areas, values as to uses and seasonal demand, as might be deemed proper and within the authority conferred by the Act. This order further provided that each District Board should transmit its schedule of proposed minimum prices

<sup>1</sup> 3 F. R. 1200, 1226 DI.<sup>2</sup> 50 Stat. 72.<sup>3</sup> 3 F. R. 2057 DI.



to each code member in the district before filing such schedule with the Commission in order to give code members an opportunity of protesting any proposed price classification.

Order No. 249 further directed that the minimum prices proposed by the several district boards should conform to the following standards therefor set out in Section 4 II (a) of the Act:

(a) The proposed minimum prices for each of the aforesaid districts shall yield a return per net ton for such districts equal, as nearly as may be, to the weighted average of the total costs, per net ton, of the tonnage of the minimum price area within which such district is located, as said weighted average heretofore has been determined by order of the Commission dated August 19, 1938, in this proceeding.

(b) They shall reflect, as nearly as possible, the relative market value of the various kinds, qualities and sizes of coal to which they are applicable.

(c) They shall be just and equitable as between producers within the district.

(d) They shall be just and equitable as between producers within the district for any kind, quality or size of coal for shipment into any consuming market area.

(e) They shall not permit dumping.

Order No. 249 further directed that each schedule of proposed minimum prices submitted by the district boards should include the following clause:

"NOTE.—The prices in this schedule are not the final minimum prices that will be established on coal for shipment by code members within this district into consuming markets of this district. In the ultimate establishment of the effective minimum prices, pursuant to subsection (b) of Part II, Section 4 of the Act, the minimum prices as proposed in such schedule, or as modified, are subject to such increase or decrease, respectively, as may be necessary to carry out the provisions of subsections (a) and (b) of Part II, Section 4 of the Act."

Order No. 250 directed each of the aforesaid District Boards to propose to the Commission reasonable rules and regulations incidental to the sale and distribution of coals by the code members of their respective districts, such rules and regulations not to be inconsistent with the requirements of Section 4 of the Act and to conform to the standards of fair competition therein established. Said order directed said District Boards to transmit such proposed rules and regulations to all code members in order that they would be afforded an opportunity of studying such proposed rules and regulations and of protesting to any of such proposals and to suggest whatever added rules or regulations such code members deemed necessary to properly effectuate the purposes of Section 4 of the Act.

Upon receipt of said orders by the several District Boards within Minimum Price Areas 2, 3, 4 and 5, said District Boards, as directed in said orders, proceeded to propose such minimum prices

and marketing rules and regulations as in their judgment conformed to the requirements of said orders. Schedules evidencing such proposals were prepared by said District Boards and copies of same were transmitted to each code member within the respective districts in order that such code members, after due consideration of such schedules, might present to their respective District Boards whatever objections, if any, they might have to said schedules, and in order that the respective District Boards, after due consideration of such objections, if any, might revise such schedules in such manner as, in their judgment, would better conform to the requirements of Orders No. 249 and No. 250, as issued by the Commission, and to the requirements of Section 4 II (a) of the Act.

The schedules of minimum prices, as revised, together with the data upon which same were computed and the schedules of marketing rules and regulations, together with the reasons supporting same, were transmitted to the Commission as directed in said orders.

Subsequent to the receipt of said schedules by the Commission, the Commission, on the 11th day of October 1938, issued its order giving notice to all interested parties of a hearing to be held upon the proposals of minimum prices and marketing rules and regulations as proposed and submitted to the Commission by the District Boards for Districts 9, 10, 11, 12, 13 (except Van Buren, Warren and McMinn Counties in Tennessee), 14 and 15 within Minimum Price Areas 2, 3, 4 and 5, said hearing to be held on the 26th day of October 1938, at the Hearing Room of the Commission, 15th and Eye Streets, N. W., Washington, D. C. As expressed in the face of said order, said hearing was to be held for the purpose of receiving evidence relating to the aforementioned proposals of minimum prices and marketing rules and regulations in order to enable the Commission to approve or modify such proposals to the end that such proposals, as approved or modified, may serve as the basis for the coordination of same as provided in Section 4 II (b) of the Act.

Said order giving notice of said hearing directed the Secretary of the Commission to cause copies of said proposals to be made available for inspection by interested parties at the office of the Secretary of the Commission at Washington, D. C., and at the office of each Statistical Bureau of the Commission within Minimum Price Areas 2, 3, 4 and 5; to cause a copy of said order to be published forthwith in the FEDERAL REGISTER and in two consecutive issues of a newspaper having a general circulation in each of the districts within Minimum Price Areas 2, 3, 4 and 5; and to cause a copy of said order to be mailed to each of the code members within said districts, to the Office of Consumers' Counsel, Washington, D. C., and to the Secretaries of each of the District Boards for the districts within Minimum Price Areas 2, 3, 4 and 5.

A copy of said order was also directed to be made available for inspection at each of the Statistical Bureaus of the Commission within said districts.

The aforesaid directions in said order were complied with. A copy of said order was made available for inspection at the office of the Secretary of the Commission at Washington, D. C., and at the office of each of the Statistical Bureaus of the Commission within each of the districts within Minimum Price Areas 2, 3, 4 and 5. A copy of said order was published in the FEDERAL REGISTER of date October 14, 1938, and a copy of said order was mailed to each of the code members within Minimum Price Areas 2, 3, 4 and 5, to the Office of Consumers' Counsel, Washington, D. C., and to each of the Secretaries of the District Boards within Minimum Price Areas 2, 3, 4 and 5. A copy of said order was published in two consecutive issues of The Des Moines Register, Des Moines, Iowa; The Birmingham News, Birmingham, Alabama; the Illinois State Register, Springfield, Illinois; The Terre Haute Tribune, Terre Haute, Indiana; The Louisville Times, Louisville, Kentucky; The Kansas City Star, Kansas City, Missouri; and the Arkansas Democrat, Little Rock, Arkansas, newspapers having a general circulation in each of the respective districts within Minimum Price Areas 2, 3, 4 and 5.

Subsequent to the issuance and service of the aforementioned order giving notice of hearing upon the proposed minimum prices and marketing rules and regulations as proposed by the District Boards for Districts 9, 10, 11, 12, 13 (except Van Buren, Warren and McMinn Counties in Tennessee), 14 and 15, the Commission, on the 21st day of October 1938, issued its order giving notice of postponement of said hearing, the date of said hearing being postponed from the 26th day of October 1938 to the 3d day of November 1938.

Said order giving notice of the postponement of said hearing directed the Secretary of the Commission to cause a copy of same to be published forthwith in the FEDERAL REGISTER and in two consecutive issues of a newspaper having a general circulation in each of the aforesaid districts. Said order further directed the Secretary of the Commission to mail a copy of same to each of the code members within Minimum Price Areas 2, 3, 4 and 5, to the Office of Consumers' Counsel, and to the Secretary of each of the District Boards within said Minimum Price Areas. The Secretary of the Commission was also directed to make a copy of said order available for inspection at each of the Statistical Bureaus of the Commission within Minimum Price Areas 2, 3, 4 and 5.

The aforesaid directions in said order were complied with. A copy of said order was published in the FEDERAL REGISTER of date October 25, 1938, and copies of said order were mailed to each of the code members within Minimum Price Areas 2, 3, 4 and 5; to the Office



of Consumers' Counsel, Washington, D. C.; and to each of the Secretaries of the District Boards for Districts 9, 10, 11, 12, 13, 14 and 15. A copy of said order was made available for inspection at each of the Statistical Bureaus of the Commission within said districts. A copy of said order was published in two consecutive issues of the Birmingham News, Birmingham, Alabama; The Des Moines Register, Des Moines, Iowa; Illinois State Register, Springfield, Illinois; Arkansas Democrat, Pulaski County, Arkansas; The Terre Haute Tribune, Terre Haute, Indiana; The Kansas City Star, Kansas City, Missouri; and The Louisville Times, Louisville, Kentucky, newspapers having a general circulation in each of the respective districts within Minimum Price Areas 2, 3, 4 and 5.

The Commission on the 29th day of October 1938 issued its order giving notice that the hearing in the matter of the proposals of minimum prices and marketing rules and regulations as submitted to the Commission by the District Boards for Districts 9, 10, 11, 12, 13 (except Van Buren, Warren and McMinn Counties in Tennessee), 14 and 15 as previously set by order of the Commission for the 3d day of November 1938, at 10 a. m. in the Hearing Room of the Commission at 15th Street and Eye Street, N. W., Washington, D. C., had been separated so as to provide for that part of the hearing relating to Minimum Price Area No. 3 to be held in the City of Washington, D. C., on the 9th day of November 1938 and that part of the hearing relating to Minimum Price Areas 2, 4 and 5 to be held in the City of Chicago, Illinois, on the 14th day of November 1938.

Said order further gave notice that the date for the hearing in the matter of the proposals of minimum prices and marketing rules and regulations as submitted to the Commission by the District Board for District 13 (except Van Buren, Warren and McMinn Counties in Tennessee) as previously set by order of the Commission for the 3d day of November 1938, at 10 a. m. in the Hearing Room of the Commission at 15th and Eye Streets, N. W., Washington, D. C. had been postponed to November 9, 1938, the hearing to be held at the same hour and place.

Said order also gave notice that the date for the hearing in the matter of the proposals of minimum prices and marketing rules and regulations as submitted to the Commission by the District Boards for Districts 9, 10, 11, 12, 14 and 15 as previously set by order of the Commission for the 3d day of November 1938, at 10 a. m. in the Hearing Room of the Commission at 15th and Eye Streets, N. W., Washington, D. C., had been postponed to the 14th day of November 1938, said hearing to open at 10 a. m. in the Hearing Room of the Commission in the Morrison Hotel, Chicago, Illinois.

Said order giving notice of the separation and postponement of said hearing

directed the Secretary of the Commission to cause a copy of same to be published forthwith in the FEDERAL REGISTER and in a newspaper having a general circulation in Districts 9, 10, 11, 12, 13, 14 and 15. The Secretary of the Commission was further directed to cause copies of said order to be mailed to each of the code members within said districts, to the Office of Consumers' Counsel, Washington, D. C., to the Secretaries of each of the District Boards within Minimum Price Areas 2, 3, 4 and 5, and to make available for inspection a copy of said order in each of the Statistical Bureaus of the Commission within said districts.

The aforesaid directions in said order were complied with. A copy of said order was made available for inspection at the office of each of the Statistical Bureaus of the Commission for each of the districts within Minimum Price Areas 2, 3, 4 and 5. A copy of said order was published in the FEDERAL REGISTER of date November 1, 1938, and copies of said order were mailed to each of the code members within Minimum Price Areas 2, 3, 4 and 5; to the Office of Consumers' Counsel, Washington, D. C.; and to each of the Secretaries of the District Boards within Minimum Price Areas 2, 3, 4 and 5. A copy of said order was published in two consecutive issues of The Louisville Times, Louisville, Kentucky; The Illinois State Register, Springfield, Illinois; The Des Moines Register, Des Moines, Iowa; The Terre Haute Tribune, Terre Haute, Indiana; The Arkansas Democrat, Little Rock, Arkansas; The Birmingham News, Birmingham, Alabama; and The Kansas City Star, Kansas City, Missouri.

Due and reasonable notice of the separate hearing upon the proposals of minimum prices and marketing rules and regulations as submitted to the Commission by the District Boards within Minimum Price Areas 2, 4 and 5, as postponed, having been given all interested parties, said cause came on for hearing before the Commission on the 14th day of November 1938, at the hour and place as specified in the order of the Commission dated October 29, 1938, to wit, at 10 a. m., in the Hearing Room of the Commission at the Morrison Hotel, Chicago, Illinois; and, after said hearing had been duly and formally opened and all interested parties desiring to appear had entered their appearances in said cause, the Commission proceeded to receive evidence relative to the proposals of minimum prices and marketing rules and regulations as proposed to the Commission by the District Boards for Districts 9, 10, 11, 12, 14 and 15, said hearing being duly concluded on the 6th day of December 1938.

At said hearing all interested parties were afforded full opportunity to be heard on the proposals of minimum prices and marketing rules and regulations which had been submitted by each of the District Boards within Minimum Price Areas 2, 4 and 5. Each of the Dis-

trict Boards within said Minimum Price Areas adduced evidence relating to such proposals and placed into the record as exhibits all of the data which such District Boards had used as a basis for such proposals and each of the District Boards through competent witnesses testified as to the factors which the District Boards had considered in determining the price relationships and the marketing rules and regulations which had been proposed by the District Boards in their respective schedules.

Each of the schedules of proposed minimum prices offered in evidence by the District Boards contained the above clause previously quoted from Order 249 which clearly indicated that the District Boards were proposing minimum prices free on board transportation facilities at the mines for kinds, qualities and sizes of coal produced in each of the aforesaid districts without taking into consideration those additional factors and standards which are set forth in Section 4, Part II, subsection (b) of the Act. The minimum prices so proposed, as hereafter approved or modified, will serve as a basis for coordination as provided in Section 4 II (b) of the Act. Such proposals of minimum prices do not take into account differences in transportation methods and charges and their effect upon a reasonable opportunity to compete on a fair basis, or competitive relationships between coal and other forms of fuel and energy as such matters constitute a part of the coordination of minimum prices and are properly a subject of consideration under Section 4 II (b) of the Act.

The Commission, after hearing the evidence adduced with respect to the minimum prices and marketing rules and regulations proposed by the District Boards for Districts Nos. 14 and 15, upon due consideration thereof, and being fully advised in the premises, makes Findings of Fact and Conclusions as follows:

#### MINIMUM PRICE AREA NO. 4—DISTRICT NO. 14

##### PROPOSED MINIMUM PRICES

Pursuant to Order No. 249 of the Commission, the District Board for District No. 14 prepared a schedule of proposed minimum prices f. o. b. transportation facilities at the mines for kinds, qualities and sizes of coal produced by the various code members within the District, and such classification of coals and price variations as to mines and consuming market areas, and values as to uses and seasonal demands as it deemed proper and within the authority conferred by the Act, and transmitted a copy thereof to each and every code member within District No. 14.

Twenty-five protests thereto were received by District Board No. 14, all of which were set for hearing at a regular meeting of said Board. Eleven of the protestants either failed to appear at the hearing or withdrew their protests. The other fourteen protestants were heard and their protests acted upon by the Board.



some of which were denied and others of which were granted, either in whole or in part. The District Board then revised its proposed schedule of minimum prices to incorporate the changes it had made as a result of the hearing on the protests and reserved the schedule as thus amended upon each and every code member within the District. A copy of the proposed schedule as thus revised, together with the data upon which the proposed minimum prices were computed and the factors considered in determining the price relationships, were submitted to the Commission, and said amended schedule was introduced in evidence herein as Exhibit No. 711.

District Board No. 14 received several protests to its amended schedule of proposed minimum prices, but instead of hearing these protests at a regular meeting as it did the original protests it adopted a resolution and appointed an impartial Board of Arbitration to hear them. None of the members of this Board of Arbitration were in any way connected with the coal industry at the time of their appointment to the Arbitration Board, but all of them had had previous experience in the coal business and were competent to decide such matters as were presented by the protests.

All code members within District No. 14 were notified of the establishment of the Board of Arbitration and the protests directed to the amended schedule of proposed minimum prices were set for hearing before said Board on November 8, 1938. The Board of Arbitration met on that date. After hearing and considering all of the evidence introduced by the protestants and by the Chairman and the Secretary of District Board No. 14 the Board of Arbitration filed a written report of its findings and decisions thereon with the District Board, which report was adopted by District Board No. 14 and introduced in evidence herein as Exhibit No. 713.

The schedule of minimum prices proposed by District Board No. 14 was prepared by the entire District Board, and the Chairman and the Assistant Secretary of said District Board, both of whom are thoroughly familiar with the marketing and distribution of coals produced in District No. 14, testified in support thereof. Their knowledge of the coals of District No. 14 is based upon years of experience in said District.

District Board No. 14 consists of thirteen members, all of whom have been connected with the coal industry for a good many years and practically all of whom have had long experience in the mining and marketing of coal. Most of the members of the District Board derived their experience in the coal industry from work therein in the State of Arkansas, and some of them who are of middle age have been connected with the industry practically all of the working period of their lives. Some members of the District Board

have had much longer experience in the industry than others but the average experience of all members of the Board is in excess of fifteen years. The labor member of the Board has also had wide experience in the coal industry in Eastern Pennsylvania. The members of the District Board represent production from each subdistrict into which they divided the District, and they have an intimate knowledge of the relative values of the coals produced in each of said subdistricts. By reason of their intimate knowledge of the coals produced in each subdistrict they are fully capable of judging the price differentials and relationships between the kinds, qualities and sizes of coal produced within the District.

The District Board obtained from its code members, by means of a questionnaire, distribution data showing by tons the various sizes of coal produced by each code member during the calendar year 1937. These data, which represent more than 87 percent of the tonnage produced within the District during the year 1937, were introduced in evidence as Exhibit No. 714. It then conducted a series of meetings running from day to day for about a week at which the various kinds, qualities and sizes of coals produced within the District were discussed and their relative values considered.

The schedule of minimum prices proposed by the District Board divides the production field in District No. 14 into eleven subdistricts, based on the geographical location of each field, as follows:

- (1) Includes all mines in Pope County, and all mines in the "Spadra field" of Johnson County, Arkansas.
- (2) Includes all mines in the Denning-Coal Hill and Altus fields and the Philpott field of Johnson and Franklin Counties, Arkansas.
- (3) Includes all mines in the "Paris Field" of Logan County, Arkansas, and mines in Franklin County located in the Paris Basin.
- (4) Includes all mines in the "Charleston Field" in Franklin County, Arkansas.
- (5) Includes all mines in Sebastian County, Arkansas.
- (6) Includes all mines in the "Panama Field" of LeFlore County, Oklahoma.
- (7) Includes mines in the "Bokoshe and Milton Field" of LeFlore County, Oklahoma, mines in the McCurtain field of Haskell County and all mines in Sequoyah County, Oklahoma.
- (8) Includes all mines in the "Poteau-Wister field" in LeFlore County, Oklahoma.
- (9) Includes all mines in the "Howe-Heavener field" of LeFlore County, Oklahoma, and all mines in the "Bates field" in Scott County, Arkansas.
- (10) Includes all mines in the "Stigler-Kanima field" in Haskell County, Oklahoma.

(11) Includes all mines in the "Scranton field" of Logan County, Arkansas.

There is only one vein of coal in each subdistrict, although there are three different veins of coal being mined in the entire area which constitutes District No. 14, but because of the geographical distribution of the various producing fields that constitute the District, the District Board deemed it necessary, in order to properly relate the coals one to another, to divide the area into the subdistricts designated above.

The coal produced in subdistrict No. 1 is mined from what is known as the lower Hartshorne seam and comprises the so-called Arkansas anthracite coal. This coal is high in fixed carbon, is low in volatile matter and moisture, is non-coking and runs between 14,000 and 15,000 B. t. u. content. It is a so-called hard coal and is sold almost entirely for domestic purposes, with the exception of the fines or slack coal which are sold almost exclusively to the smelters as a flux or reducing agent. This coal stands shipment well and is considered a high grade coal.

Most of the coals produced in subdistrict No. 2 are mined from the lower Hartshorne seam and in considering the quality and nature of the coals from this subdistrict they must be considered separately. This seam generally consists of two benches of coal which are somewhat different in quality. The coal produced in the Altus field in this subdistrict is no doubt mined from one of the benches of the lower Hartshorne seam, but it is in another district from where the two benches of that seam are worked together. The coal from this subdistrict is lower in fixed carbon and somewhat higher in volatile matter than the coal produced in subdistrict No. 1. It is also low in moisture and has practically no agglutinating or coking properties. In price classification the coal from the Altus field ranges with that which the District Board has designated in its proposed schedule as Paris grade A coal. The rest of the coals produced in subdistrict No. 2 outside of the Altus field range in price with the coals produced in the mines in subdistrict No. 5.

The Philpott field of Johnson and Franklin Counties, which has been included in subdistrict No. 2, is a separate field of coal that is considered to be one of the benches of the lower Hartshorne seam. The mines in this field have no railroad connections and the coal produced therein is shipped by wagon and truck and ranges slightly lower in price than the coal which the District Board has designated in its proposed schedule as Paris grade B coal. Chemically it is a very superior coal, but is softer than the other coals in subdistricts Nos. 1 and 2.

The coals produced in subdistrict No. 3 are mined from a small vein of coal known as the McAllister seam, which lies about 1,000 feet above the Hartshorne



seams. These coals are low in moisture, high in fixed carbon, low in volatile matter and hard. The average percentage of fixed carbon therein is about 72 to 76 per cent and volatile matter ranges from 16 to 18 per cent. These coals vary slightly, stand shipment well and range slightly below the coals produced in sub-district No. 1 in price.

The coal produced in subdistrict No. 4 is mined from a small vein of coal which lies above the McAllister or Paris seams of coal. In the past it has been mined almost exclusively from strip pits, but at the present time the strip mining has been abandoned, and it is now being mined by a number of small truck and wagon haul mines only. This coal is similar in chemical analysis to most of the coal produced in sub-district No. 2 and to the Paris coal, but it is considerably higher in sulphur content and is not as high-grade as any of the coals produced in subdistricts Nos. 1, 2 and 3. It ranges in price with the coals produced in subdistricts Nos. 8 and 9.

Subdistrict No. 5, which comprises all mines in Sebastian County, Arkansas, includes several divisions with coal varying in quality and price, so that in speaking of the quality of the coal in this subdistrict it is necessary to separate the coal into the natural divisions as they occur. Most of the coal mined in this subdistrict is from the lower Hartshorne seam, the analysis of which is similar to the coal mined from the Denning-Coal Hill fields, but it is not quite as hard as the coal from that field, having somewhat more of a coking nature. These coals run about 71 to 75 or 76 per cent fixed carbon and about 17 to 19 per cent volatile matter, but the ash and sulphur contents are practically the same as they are in the coal from the Denning-Coal Hill fields of Franklin and Johnson Counties, Arkansas.

The Excelsior coal produced in sub-district No. 5 is mined from the upper Hartshorne seam. This coal is low in moisture and high in fixed carbon, the fixed carbon content ranging from 74 to 77 per cent, with volatile matter averaging about 17 per cent. It is also lower in ash and sulphur content than most of the other coals produced in District No. 14. This coal generally has a superior analysis, but it is rather soft and friable, and on this account it has a price lower than the Paris coal, the differential between Excelsior grade A coal and Paris grade A coal being thirty-five cents per ton.

Subdistrict No. 6, which includes all mines in the Panama Field of LeFlore County, Oklahoma, adjoins subdistrict No. 5 and all of the mines in this sub-district, with the exception of that of the Acme Coal Company which mines its coal from the lower Hartshorne seam, mine their coal from the upper Hartshorne seam. The coal produced in this subdistrict has practically the same analysis as to fixed carbon and

volatile matter as the coal produced in subdistrict No. 5, but is generally superior thereto in the matter of ash and sulphur content. It is considered to be of about the same hardness as the coal from subdistrict No. 5 and generally sells at a slightly higher price than the coal from that subdistrict, with the exception of the coal produced in the Excelsior Field. The coal produced by the Acme mine from the lower Hartshorne seam in subdistrict No. 6 is considered to be slightly harder than the coal produced in the same district from the upper Hartshorne seam, but at the present time the price is the same for all of the different mines in subdistrict No. 6.

Subdistrict No. 7 includes mines in the Bokoshe and Milton Fields in LeFlore County, mines in the McCurtain Field in Haskell County, and all mines in Sequoyah County, Oklahoma. Most of the coal in this subdistrict is mined from the Bokoshe Field. A much smaller amount is mined from the Milton and McCurtain Fields, but only small mines operate in Sequoyah County. At the present time all of the coal produced in this subdistrict is mined from the lower Hartshorne seam. The coal generally produced in this sub-district is similar in analysis to the coals produced in subdistricts Nos. 5 and 6, but it is somewhat softer and the price is lower on account of its friability. There are two marked exceptions, however, in the general characteristics of the coal produced by the Keener Coal Company and the Gillie Coal Company in the Bokoshe field. The coal produced by these mines has a superior analysis to, and is harder than, the coal produced by the other mines in sub-district No. 7, and the price from these mines is in the same bracket with the best mines in subdistrict No. 6.

Practically all of the coal produced in subdistrict No. 8 comes from the Poteau field and is mined from the Poteau vein, which is a vein located above the McAllister seam. This coal is high in fixed carbon and is low in volatile matter, being similar in these respects to the coal produced in subdistrict No. 5, but it is rather high in sulphur content. However, it is hard and ships well, and on account of its hardness it ranges in price slightly below the coals produced in sub-district No. 6. The coal produced in the Wister field in subdistrict No. 8 is practically the same as that produced in the Poteau field, but there is very little coal mined from this part of subdistrict No. 8.

Subdistrict No. 9 includes all mines in the Howe-Heavener field of LeFlore County, Oklahoma, and all mines in the Bates field in Scott County, Arkansas, but it is necessary to consider the production of these fields separately. Howe and Heavener are two small towns about five or six miles apart with a continuous seam of coal lying between and adjacent thereto. The coal produced in this field

is mined from the lower Hartshorne seam. It has a good analysis similar or slightly superior to the coal produced in subdistrict No. 5, with the exception of the Excelsior coal produced in that District, but it is soft and friable and does not generally make a first class domestic coal. It is also of a coking or agglutinating nature and coke ovens have been operated in this part of subdistrict No. 9 in the past, but they have been abandoned for several years. The price classification of this coal is similar to the poorer class coals of subdistrict No. 7.

The coal produced in the Bates field in subdistrict No. 9 is mined from one bench of the lower Hartshorne seam. This coal is somewhat lower in fixed carbon and higher in volatile matter than the coal produced in other mines in District No. 14. It is rather low in ash and sulphur content, however, and is hard and screens well, and now ranges in price with the coal which the District Board has designated in its proposed schedule as Excelsior grade A coal.

The coal produced in subdistrict No. 10 is mined from a small seam of clean coal supposed to be the McAllister seam. It has a very good chemical analysis, but is soft and friable and is sold almost entirely for blacksmithing purposes, except for local use. Blacksmithing coal, which requires special characteristics, must be low in sulphur content and have agglutinating or coking properties so that it will run together in the forge and make a mound into which tools, steel or iron may be projected and the structure stand up without falling into a mass of slack. This coal has these characteristics and is shipped in box cars and sometimes in sacks and the District Board placed a special price thereon for blacksmithing purposes.

The coal produced in subdistrict No. 11 is mined from the lower Hartshorne seam in what is known as the Scranton field, which is an extension of the Spadra field south of the Arkansas River. This coal has an analysis similar to the Spadra coal produced in subdistrict No. 1 and is somewhat similar in analysis to the coal mined from the lower Hartshorne seam in subdistrict No. 2, but in chemical analysis it seems to come somewhere between the coals produced in subdistricts Nos. 1 and 2. It is probably not quite so hard as the coal in subdistrict No. 1 and is not screened into many sizes. This coal was formerly classified with Paris coal, but is now in a subdistrict by itself, as it is not mined from the same seam of coal as the Paris coal and differs considerably therefrom in chemical analysis. It now takes the same price as the Paris grade B coal. In considering the coals produced in this subdistrict it must be kept in mind that practically all of the coals produced in Pope County and in the Spadra field in subdistrict No. 1 are run through a breaker before being screened, and that very little lump coal is sold from those two fields, as most



of the coal therefrom is broken down into sizes smaller than lump.

The District Board designated by states the consuming market areas into which the producers of District No. 14 ship their coals on page 11 of the proposed schedule of minimum prices, Exhibit No. 711. Said areas are as follows:

*Area No. 1.*—Arkansas, Iowa, Kansas, Louisiana, Missouri, Nebraska, Oklahoma and Texas.

*Area No. 2.*—Minnesota, North Dakota and South Dakota.

*Area No. 3.*—Illinois, Western Mississippi, Western Tennessee and Wisconsin.

The minimum prices proposed by the District Board are the same for all of said consuming marketing areas.

The schedule of minimum prices proposed by the District Board contains twenty-one size groups numbered from one to twenty-one and seventeen price classifications ranging from A to Q. The Board found from its study of the distribution data submitted by its code members for the year 1937 that twenty-one size groups were necessary to properly reflect the relative values of coals in District No. 14, and included only those sizes which were comparable competitively in the same size group.

It then determined that Size Group No. 5, which included the predominant tonnage in the District was the base size group and that the coal mined in the Paris field in subdistrict No. 3 was the base quality coal in the District. Then, by using the coal from the Paris field and Size Group No. 5 as bases, it related the coals of all of the code members in the District according to their values based on analyses, physical characteristics and market history.

The classifications which the board proposed for the coals of each code member are set forth on pages 5 to 9, inclusive, of Exhibit No. 711, and the price classifications therefor by size groups are set forth on Page 10 of the same exhibit. The "A" classification represents the highest price coal in each size group. The "B" to "Q" classifications, inclusive, represent prices of coal that have values less than the "A" coals in descending orders of value.

The data as to the analyses of the various coals that were used by the District Board in determining its price classifications were introduced in evidence as Exhibit No. 712. A considerable part of the analyses shown in this exhibit were made by geologists of the United States Geological Survey according to the United States Bureau of Mines standards of sampling. Others were taken from reports of the Arkansas State University, but a considerable number of them were simply analyses furnished by different code members. There are probably some of these analyses that are out of line, but practically every member of the District Board is familiar with the coal produced in the entire District, and where the analyses were very far out of line they

were recognized by the District Board, so that the price relationships which the Board has proposed were not affected thereby.

District No. 14 coals are only sold on an analyses basis in a few instances and it is not possible to rely entirely upon the analyses of coals in that District to show their relative market values. In many instances the physical characteristics are more important in the trade sales territory served by District No. 14 than the chemical analyses. A coal that makes a large amount of degradation or slack is not favored by the retail dealers in that territory, although the analyses may be superior to a harder coal. For example, the Paris coal is inferior in chemical characteristics to the Excelsior coal, but on account of its superior hardness and less degradation in handling, it is graded above Excelsior coal.

Size groups Nos. 1 and 2 cover lump solid-shot coal screened over bars spaced not more than  $\frac{3}{4}$ " and  $1\frac{1}{2}$ " apart, respectively, and size group No. 3 covers like coal screened over perforated plates with round holes not larger than  $2\frac{1}{2}$ " in diameter. Size groups 4 and 5 cover lump machine-cut coal screened over perforated plates with round holes less than, and larger than,  $2\frac{1}{2}$ " in diameter, respectively.

The witness for the District Board explained that it was necessary to make this distinction between solid-shot coal and machine-cut coal, because District Board No. 14 does not consider solid-shot coal comparable in value to machine-cut coal and the retailers in the markets to which the producers ship these coals favor the machine-cut coal over solid-shot coal. Coal shot from the solid is more friable than machine-cut coal and has greater degradation as it will not stand handling or storing as well as the machine-cut coal. Consequently, the machine-cut coal brings a better price in the market than the solid-shot coal. The explanation and justification given by the District Board for the inclusion of these proposed sizes appears to be adequate, and their inclusion in the proposed schedule is hereby approved.

Size Groups Nos. 6 to 18, inclusive, have been used to designate the different sizes of coal that are sold under trade names, the sizes which are included in each size group being the sizes that are sold under the trade name designated therein. Size Group No. 19 was used as a designation for all mine-run coal sold by code members of the District for use as railroad locomotive fuel, and includes mine-run coal as designated in Size Group No. 18, and mine-run coal with all or part of the lump, grate, furnace, or egg coal removed therefrom.

The witness for the District Board testified that while very little mine-run coal is sold by the rail mines in District No. 14 for use other than as railroad locomotive fuel, the District Board deemed it advisable to propose a graduated scale of

prices for mine-run coal sold for other purposes, because the mine-run coal from the Paris field, and from some other fields from which it is sold in a relatively smaller degree than the Paris field, is almost as good as the lump coal from said fields, and the Board felt that it would be unfair to permit the mines in said fields to sell their mine-run coal for other purposes at prices that were much less than their lump coal prices. On the other hand, the experience of the producers in District No. 14 has shown that the railroads obtain about the same efficiency from the different qualities of coals produced in the District when they are used for locomotive fuel. Consequently, the Board believed that only one price for coal used for railroad locomotive fuel would be necessary.

The difference between the single minimum price which the District Board has proposed for coal used for railroad locomotive fuel, designated as Size Group 19, and the various minimum prices which the Board has proposed for the different qualities of mine-run coal used for other purposes, designated as Size Group No. 18, is not only due to these facts, but to the fact that the railroads furnish a constant service to the producers that other consumers are not able to afford, namely: they purchase railroad locomotive fuel during all seasons of the year, and also help balance the production of the producers, because the sizes that they need for burning in their locomotives are not as important as they are to many other consumers.

The District Board believes that the price which it has proposed for railroad locomotive fuel coal is just and equitable as to all of the producers in District No. 14 and that it also gives due regard to the interests of the railroads. It also believes that if it had proposed a greater minimum price therefor, the tonnage which has in the past moved to railroads for such purposes might well be dislocated, since the railroads might turn to oil or purchase their coal for such use from other fields. The minimum price which the District Board has proposed is the price that the railroads have been willing to pay and have paid for railroad locomotive fuel in District No. 14 in the past. No testimony or evidence was presented in objection thereto. The Commission finds that said proposed price reflects the relative value of the kind, quality and sizes of coals included in that size group when such coals are sold for said use and it is approved. One of the witnesses for the District Board also testified that it would clarify the intent of the Board to add the word "locomotive" wherever the words "railroad fuel" appear in the schedule of proposed minimum prices so as to read "railroad locomotive fuel" and the Commission finds that this should be done.

Size group No. 20 was used as a designation for dead coal used by smelters. All of this coal is classified as "A" coal and is uniformly priced at \$1.65 per ton.



As explained by an expert witness for the District Board it is coal that is mined by strip mining along the outcrop where it has weathered for ages. It is coal that has lost some of its value for ordinary domestic and commercial purposes, as it will not burn by itself and is used only by smelters for ore reduction. This coal is sold in competition with Bernice and Spadra slack coal produced in subdistrict No. 1. It is not as good as those coals and is sold at a lower price. Any slack that is low in volatile matter and is non-fusing or non-coking, however, will serve the same purpose as this dead coal. For these reasons the District Board deemed it necessary to establish a minimum price therefor, and since there is no opposition thereto and said minimum price appears to reflect the relative value of said coal, the Commission finds that said price should be approved and it hereby is approved for inclusion in the proposed schedule.

Size group No. 21 was used as a designation for coal used for blacksmithing purposes. With the exception of the first five size groups wherein the District Board differentiated the size groups into solid-shot coal and machine-cut coal, the size groups are numbered in descending order as to size. A witness for the District Board testified that if the first five size groups were rearranged in the same descending scale of sizes in the same manner as the Board grouped the other sizes it would not in any way affect the price relationship set up in the proposed schedule. This can be accomplished by transposing size groups Nos. 1 and 2 and size groups Nos. 4 and 5, which would necessitate a clerical rearrangement of pages 5 to 10, inclusive, of the proposed schedule. The Commission finds that such changes should be made.

One of the expert witnesses for District No. 14 testified that there is very little coal washed in the District and that the District Board did not propose any charge or differential therefor, but stated that if any of the producers in the District installed washers, the Board would request permission of the Commission to provide an additional charge for washing. The Commission finds, therefore, that no differential should be made for washed coal in District No. 14 at this time.

The District Board proposed ten price instructions and exceptions, all of which are set forth on page 1 of the proposed schedule, Exhibit No. 711. Item three thereof provides that:

"All size designations herein are for round hole screens. When other types of screens are used the round hole equivalent shall control the size."

But an expert witness for the Board testified that the following language more accurately states what the District Board had in mind:

"All size designations herein are for round hole screens, or their equivalents, except when otherwise designated. When

other types of screens are used, the District Board, subject to the approval of the Commission, shall determine the actual size designation of coal so prepared."

The Commission finds that the language of Item 3 as it now appears on page 1 of the proposed schedule, Exhibit No. 711 should be deleted and that the language above quoted should be inserted in lieu thereof.

Item No. 4, page 1, of the proposed schedule provides that:

"All prices herein are per net ton of 2,000 lbs. f. o. b. transportation facilities at the mines unless otherwise designated."

The minimum prices proposed by the District Board are on a cents per ton basis and the Commission finds that the language of the above item should be clarified by inserting the words "in cents" after the word "are" in the first line thereof so that it will read as follows:

"All prices herein are in cents per net ton of 2,000 lbs. f. o. b. transportation facilities at the mines."

The Commission also finds that page 10 of Exhibit No. 711 should also be clarified by deleting the dollar sign under size group one, and by eliminating all of the decimal points on said page so that the prices enumerated thereon will be expressed in cents per ton and not in dollars and cents per ton.

Item No. 5, page 1 of the proposed schedule provides that:

"Crushed Coal.—Where any coal is crushed the minimum price therefor shall be the minimum price established for the original size, before crushing, plus five cents per ton."

One of the expert witnesses for the Board testified that when the District Board formulated this price instruction, it had in mind a practice in the Spadra field of mining so-called Arkansas anthracite coal, the slack from which is used as a flux in the reduction of zinc ore. It appears that the mining of coal in this field is largely seasonal, that in the summertime no coal is mined for domestic purposes, and that no slack is produced in the summer for smelter use. During this period in the past some of the producers have crushed their mine-run coal into slack and sold it to the smelters at a slack price. The intention of the District Board was to compel such producers to get the minimum price proposed on the original size of the coal before it is crushed, plus five cents as a service charge to the customer for the crushing.

The witness testified further that as a general proposition the crushing does not add to the value of the coal, but when the use to which the coal is put is taken into consideration crushing does add to the value thereof in this particular case, because of the fact that it saves the consumer the cost of crushing the coal. In addition, there is a

lower freight rate on slack coal in this territory than there is on large sizes, and where the coal is crushed to slack it saves the consumer the difference in the freight rate. Consumers could not purchase screenings of the sizes to which the coal would be crushed at the season of the year referred to as there are no screenings made at these mines during the summer season, because of the fact that there is no demand for prepared sizes during such season and no screenings are available. Consequently, if the smelter plants were able to buy enough of the crushed mine-run coal during the summer season to take care of their needs throughout the balance of the year, it is obvious that distribution of the screenings would be distorted during the balance of the year, as there is no other market for the screenings except to the smelters and a small amount to a briquetting plant in Kansas City. The Commission finds that said item is properly included in the proposed schedule and it hereby approves the inclusion thereof in said schedule.

Item No. 6, page 1 of the proposed schedule, Exhibit No. 711, provides that:

"Fifteen cents per net ton extra shall be charged for all coal loaded into box cars."

A witness for the District Board testified that this charge was based partly on the cost of loading and partly on custom, but that it developed in subdistrict No. 10 where blacksmithing coal is loaded into box cars that it has been the custom not to make an extra charge therefor and that the minimum price proposed by the Board for such coal is sufficiently high to include the cost of loading as well as the sacking of the coal. He also testified that the District Board was of opinion that the cost of loading into box cars in most subdistricts was 25 cents per ton, and that it fixed this amount as the cost to be included therefor in the first instance, but that some producers in subdistrict No. 1 appeared before the Board and objected to the charge of 25 cents per ton because they had only been charging 15 cents per ton for such service and were not in a position to increase their charge therefor. He stated further that as a result of its investigation the District Board desired to modify its proposed price instruction with respect thereto by deleting the language above quoted as it now appears under Item 6, page 1, of Exhibit No. 711, and by inserting the following language in lieu thereof:

"Fifteen cents per ton shall be charged on all coal loaded in box cars, produced in Subdistrict 1, and that 25 cents per ton shall be charged for all coal loaded in box cars, in all subdistricts, except Subdistricts Nos. 1 and 10 of District No. 14. For blacksmithing coal loaded in Subdistrict No. 10, no extra charge is to be made for coal loaded in box cars."

It appears from the evidence that the recommendation is in accordance with



the practice of the industry for several years. The Commission finds that the proposed substitution should be made and the recommendation of the District Board in that respect is hereby approved.

Items Nos. 7, 8, 9 and 10, page 1, of the proposed schedule, Exhibit No. 711, provide as follows:

(7) "Slack coal, Size Groups 14, 15, and 16, moving to Oklahoma County, Oklahoma—In this area a minimum price of 80 cents per ton f. o. b. the mine, will apply on slack coal shipped from mines having a freight rate of not more than \$1.00 a ton. All mines having a freight rate to this market area of more than \$1.00 per ton shall have a minimum f. o. b. mine price for slack coal moving to that territory which will result in a delivered price of not less than \$1.80 per ton."

(8) "All coal except Lump to Twin Cities shall take a price of 35 cents per ton below prices as shown on list."

(9) "All coal to Greater St. Louis to take 35 cents per ton less than price as shown on list."

(10) "The following sizes of coal when shipped into the City of Paris, Arkansas, Logan County, shall take prices f. o. b. mines as follows: \$2.80 per ton on Mine-run, 90 cents per ton on 2½" Nutrun, and 60 cents per ton of ¾" Slack."

The Commission finds that the differentials provided for in these price exceptions are not proper differentials to be considered in this hearing, as they involve issues to be considered in the coordination of prices under Section 4-II (b), of the Act, and they shall be deleted from the schedule.

One of the witnesses for the District Board testified that since the Board had submitted its proposed schedule of minimum prices to the Commission it had made an investigation of the relative value of coals that are oil treated as compared with coals that are not so treated, and had authorized him to recommend to the Commission that its proposed schedule be amended so as to include the following price instruction and exception:

"A minimum charge of 10 cents per ton on all prepared sizes of coals shall be added for oil, or other similarly treated coal."

The Commission finds that this proposed price instruction and exception is proper and reasonable and that it should be inserted in the proposed schedule as Item No. 7, page 1, in lieu of Item No. 7 now appearing thereon which has been deleted.

The following note appears on page 4 of the proposed schedule:

"All sizes are predicated on perforated plates with round holes, or equivalent (except size groups 1 and 2) and when bar screens are used the space between bars must conform to the standard

equivalent as specified in railroad freight tariffs."

The Commission finds that this note should be deleted entirely as same has already been covered in the schedule by the change that has been made in the language of Item 3 on page 1 of Exhibit No. 711.

The following note also appears on page 4 of the proposed schedule, Exhibit No. 711:

"When any size of coal is sold, in which the maximum top or bottom size exceeds the sizes scheduled above, then such coal must be included in the next higher price group."

The District Board recommends that this note be clarified by striking out the last two words of the note and by substituting in lieu thereof the words "priced sized group and priced accordingly", so that said note shall read as follows:

"When any size of coal is sold, in which the maximum top or bottom size exceeds the sizes scheduled above, then such coal must be included in the next higher priced sized group and priced accordingly."

The Commission finds the recommendation of the District Board in this respect to be necessary and proper and it is hereby approved.

The classification of the Great Western Coal Company in size group No. 11 appears on page 6 of the proposed schedule, Exhibit No. 711, as Class "E." One of the witnesses for the District Board testified that this was a clerical error and that said classification should be changed to "F." The Commission finds that this change should be made to give effect to the determinations of the District Board.

Protests were filed with the District Board by the Victor Coal Company, Collier-Dunlap Coal Company, Harding Coal Company, Smokeless Coal Company, Gillie Coal Company, Keener Mining Company, Lewis Coal Company, and the Davis & Swindle Coal Company to the District Board's proposed schedule of minimum prices, Exhibit No. 711. These were heard by the impartial Board of Arbitration on November 8, 1938. That Board denied the protest of the Victor Coal Company, Collier-Dunlap Coal Company, Harding Coal Company, and the Smokeless Coal Company, but recommended that the classifications of the Gillie Coal Company, The Keener Mining Company, Lewis Coal Company, and Davis & Swindle Coal Company as shown on pages 6 and 7 of Exhibit No. 711 be modified as follows:

Gillie Coal Company and The Keener Mining Co., change as follows:

5-D to 5-E  
6-E to 6-F  
7-E to 7-F  
8-E to 8-F  
9-E to 9-F

Lewis Coal Company and Davis & Swindle Coal Company, change as follows:

3-D to 3-E

The District Board adopted the findings of the Board of Arbitration and also recommends that said changes be made. The reasons for the recommendations are set forth in full in the report of the Board of Arbitration, Exhibit No. 713. The Commission finds that the recommended changes are reasonable and proper and should be made and said recommendations are hereby approved.

In addition to the above named protests, the Buck Creek Coal Mining Company and the D. A. McKinney Coal Company submitted protests to the Commission but did not send copies thereof to the District Board. Neither did they submit their cases to the Board of Arbitration and neither of them appeared before this Commission when their protests were called for hearing at Chicago on November 28, 1938. The protests of these two companies are, therefore, denied.

Exhibit No. 714 shows the 1937 production of code members in District No. 14, which represents more than 87 percent of the tonnage produced within the District during that year, broken down into size groups showing the respective realization and the weighted average realization per ton for the District at the prices proposed by the District Board for said District and submitted to the Commission in Exhibit No. 711.

The average realization to be expected from the minimum prices proposed by the District Board has been computed by the District Board at \$3.63 per ton as shown on Exhibit No. 714. The weighted average cost of Minimum Price Area No. 4 in which District No. 14 is located, as determined by the Commission is \$3.617 per ton. There is, therefore, a difference of only about 1.3 cents between the average yield upon the tonnage under the prices as proposed by the District Board for District No. 14 in Exhibit No. 711, and the weighted average cost of production for Minimum Price Area No. 4, as determined by the Commission. The awards of the Board of Arbitration herein referred to will reduce this realization by \$0.004 which will bring the computed realization still closer to the weighted average cost of production for Minimum Price Area No. 4, as determined by the Commission, and within 1 cent of that average cost. The only other change in the realization involved in the recommendations herein approved is the inclusion of the new item establishing an additional charge for oil treatment of coal. This, however, involves a change of only about one hundredth of a mill, namely, \$0.00001.

District Board No. 14 approved the schedule of proposed minimum prices



which it submitted to the Commission and, in the judgment of said Board, the prices which it proposed to the Commission in said schedule, Exhibit No. 711, under the Commission's Order No. 249, are just and equitable between the producers within the District, have due regard to the interests of the consuming public, and do not and will not permit dumping. It was also the judgment of the District Board, that the prices it proposed to the Commission under the Commission's Order No. 249 reflect, as nearly as possible, the relative market values of the various kinds, qualities and sizes of coal produced in District No. 14, and that said schedule of proposed minimum prices also reflects price variations as to values and as to uses, price variations as to consuming market areas of the various kinds, sizes and qualities of coal produced within the District, and conform to the requirements of said Order No. 249 of the Commission.

And now, upon the record herein, and upon the evidence submitted, both oral and documentary, and upon the foregoing facts found to exist, the Commission finds:

That the District Board for District No. 14, as directed in Order No. 249 of the Commission, proposed minimum prices free on board transportation facilities at the mines for kinds, qualities and sizes of coal produced within the District, classification of coal and price variations as to mines and consuming market areas, and values as to uses and seasonal demand.

That the District Board for District No. 14, as directed in Order No. 249 of the Commission, submitted to the Commission a schedule of such proposed minimum prices, together with the data upon which same were computed, including, but without limitation, the factors considered in determining the price relationships.

That the minimum prices proposed by the District Board for District No. 14, as herein modified, reflect, as nearly as possible, the relative market value of the various kinds, qualities and sizes of coal produced within the district; are just and equitable as between producers within the District; have due regard to the interests of the consuming public, and do not permit dumping.

That the minimum prices proposed by the District Board for District 14 for any kind, quality or size of coal for shipment into any consuming market area, as herein modified, are just and equitable between producers within the District.

That the minimum prices proposed by the District Board for District 14, as herein modified, yield a return per net ton for the District equal as nearly as may be to the weighted average of the

total costs per net ton of the tonnage of Minimum Price Area 4, the price area in which District 14 is placed under the Act.

That the schedule of proposed minimum prices, as amended, and submitted to the Commission by the District Board for District 14, as amended, corrected, modified and revised, as hereinabove set forth, conforms to Order No. 249 of the Commission and to the requirements of Section 4-II (a) of the Act, and as so amended, corrected, modified and revised, said schedule should be, and the same is hereby, approved by the Commission to serve as a basis for the coordination provided for in Section 4-II (b) of the Act. A copy of said schedule as amended, corrected, revised and modified appears in the Appendix for District 14.

#### APPENDIX FOR DISTRICT NO. 14

##### SCHEDULE OF MINIMUM PRICES AS MODIFIED AND APPROVED TO SERVE AS A BASIS FOR COORDINATION

NOTE.—The prices in this schedule are not the final prices that will be established on coal for shipment by Code Members within this district into consuming markets of this district. In the ultimate establishment of the effective minimum prices, pursuant to subsection (b) of Part II, Section 4 of the Act, the minimum prices in this schedule are subject to such increase or decrease respectively, as may be necessary to carry out the provisions of subsections (a) and (b) of Part II, Section 4 of the Act.

F. W. McCULLOUGH,  
Secretary.

Issued: December 17, 1938.

##### PRICE INSTRUCTIONS AND EXCEPTIONS

1. The schedule of prices shown herein applies f. o. b. transportation facilities at mines on all coal produced by Code Members in the District shown on the title page hereof.

2. All prices are subject to the Marketing Rules and Regulations issued by the National Bituminous Coal Commission.

3. All size designations herein are for round hole screens, or their equivalents, except when otherwise designated. When other types of screens are used, the District Board, subject to the approval of the Commission, shall determine the actual size designation of coal so prepared.

4. All prices herein are in cents per net ton of 2,000 lbs. f. o. b. transportation facilities at the mines.

5. *Crushed coal.*—Where any coal is crushed the minimum price therefor shall be the minimum price established for the original size, before crushing, plus five cents per net ton.

6. 15 cents per ton shall be charged on all coal loaded in box cars, produced in Sub-district 1, and 25 cents per ton shall be charged for all coal loaded in box cars in all Sub-districts except Sub-districts No. 1 and 10. For Blacksmithing coal loaded in Sub-District No. 10 no extra charge is to be made for coal loaded in box cars.

7. A minimum charge of 10 cents per ton on all sizes of coals shall be added for oil or other similarly treated coal.

##### SIZE GROUPS

##### Sizes Included

Size group No. 1. Lump—Solid Shot Coal, screened over bars spaced not more than 1½" apart.

Size group No. 2. Lump—Solid Shot Coal, screened over bars spaced not more than ¾" apart.

Size group No. 3. Lump—Solid Shot Coal, screened over perforated plates with round holes not larger than 2½" in diameter.

Size group No. 4. Lump—Machine Cut Coal, screened over perforated plates with round holes larger than 2½" in diameter.

Size group No. 5. Lump—Machine Cut Coal, screened over perforated plates with round holes not larger than 2½" in diameter.

Size group No. 6. Grate—Includes all sizes of coal having a top size of 7½" and a bottom size of 5½".

Size group No. 7. Furnace—Includes all sizes of coal having a maximum top size of 12" and a maximum bottom size of 4".

Size group No. 8. Egg—Includes all sizes of coal having a maximum top size of 6" and a maximum bottom size of 2½".

Size group No. 9. Small Egg—Includes all sizes of coal having a maximum top size of 4" and a maximum bottom size of 2".

Size group No. 10. Stove—Includes all sizes of coal having a maximum top size of 3" and a maximum bottom size of 1½".

Size group No. 11. Nut—Includes all sizes of coal having a maximum top size of 2½" and a maximum bottom size of 1½".

Size group No. 12. Range—Includes all sizes of coal having a maximum top size of 2½" and a maximum bottom size of ¾".

Size group No. 13. Chestnut—Includes all sizes of coal having a maximum top size of 1½" and a maximum bottom size of ¾".

Size group No. 14. Nutrun—Includes all sizes of coal having a maximum top size of 2½", with no coal removed.



Size group No. 15. Slack—Includes all sizes of coal having a maximum top size of 1 1/4", with no coal removed.

Size group No. 16. Slack—Includes all sizes of coal having a maximum top size of  $\frac{7}{8}$ " , with no coal removed.

Size group No. 17. Pea—Includes all sizes of coal having a maximum top size of 1¼" and a maximum bottom size of ¾".

Size group No. 18. Minerun—Includes all coal as it comes from the mine with no part of the small coal removed.

Size group No. 19. Minnerun for railroad locomotive fuel—Includes minnerun as shown in size group 18 or minnerun coal with all or part of the lump, grate, furnace, or egg coal removed.

Size group No. 20. Dead coal—Coal used by smelters for Ore reduction.

Size group No. 21. Smithing Coal—  
Coal used for blacksmithing.

When any size of coal is sold, in which the maximum top or bottom size exceeds the sizes scheduled above, then such coal must be included in the next higher priced size group and priced accordingly.

## IDENTIFICATION OF SUB-DISTRICT NUMBERS

### Identification

Subdistrict No. 1. Includes all mines in Pope County, all mines in the "Spadra field" of Johnson County, Arkansas.

Subdistrict No. 2. Includes all mines in the Denning-Coal Hill and Altus fields of Franklin and Johnson Counties, and all mines in the Philpott field of Johnson and Franklin Counties. Arkansas.

Subdistrict No. 3. Includes all mines in the "Paris Field" of Logan County, Arkansas, and mines in Franklin County located in Paris Basin.

Subdistrict No. 4. Includes all mines in the "Charleston Field" in Franklin County, Arkansas.

Subdistrict No. 5. Includes all mines in Sebastian County, Arkansas.

Subdistrict No. 6. Includes all mines in the "Panama Field" of LeFlore County, Oklahoma.

Subdistrict No. 7. Includes mines in the "Bokoshe and Milton Field" of Le-flore County, Oklahoma, mines in the McCurtain field of Haskell County and all mines in Sequoyah County, Oklahoma.

Subdistrict No. 8. Includes all mines in the "Poteau-Wister field" in LeFlore County, Oklahoma.

Subdistrict No. 9. Includes all mines in the "Howe-Heavener field" of LeFlore County, Oklahoma, and all mines in the "Bates field" in Scott County, Arkansas.

Subdistrict No. 10. Includes all mines in the "Stigler-Kanima field" in Haskell County, Oklahoma.

Subdistrict No. 11. Includes all mines in the "Scranton field" of Logan County, Arkansas.

Alphabetical List of Code Members Showing Price Classification by Sizes for All  
Uses Except as Separately Shown

Code member	Mine name	Subdist. No.	Price classifications and size group Nos.																					
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	
Acme Coal Co.	Acme	2		F											B	B	B	B	A	A	A	A	A	A
Acme Semi-Anth. Coal Co.	Cameron No. 2	2		E											D	B	B	B	A	A	A	A	A	A
A & M Coal Company	Gaither	3		C	B			F	F	F	F	F	F	F	D	B	B	B	A	A	A	A	A	A
Arkansas Anth. Coal Co.	No name	3		I				C	D	D	C	B	A	A		D	B	B	B	A	A	A	A	A
Arkansas Excel. Coal Co.	No. 1	5		F				K	K	K	J		A		A	D	B	B	B	A	A	A	A	A
Leo Bach Coal Co. #	Bach Strip	5		F				B	M	M	M	L	L	L	I	D	B	B	B	B				A
Banner Mining Co.	Mine No. 18	5		E	D											D	B	B	B	B				
J. M. Bates Coal Co.	Stewart	5		F												D	B	B	B	B				
Bell Coal Company	Bell	5		E	D											D	B	B	B	B				
J. P. Bennight Coal Co. #	Bennight	5		F												D	B	B	B	B				
Bernice Anthr. Coal Co.	Bernice	7		D	F											D	B	B	B	B				
O. W. Bevel Coal Co.	No. 16	7		B				B	A	A	B	A	A	A	A	A	A	A	A	A				
Black Boy Coal Company*	Black Boy	10		D	B											D	B	B	B	B				
Black Diamond Coal Co.	Black Diamond	7		D	B											D	B	B	B	B				
Black Diamond Coal Co.	Black Diamond	8		F	B			G	G	G	G	H	E	A	D	B	B	B	B	A				
Blue Blaze Coal Co.	Blue Blaze	1		F	B			B	A	A	B	A	A	A	A	A	A	A	A	A				
Blue Flame Coal Co. #	Blue Flame	5		F	C										A	A	A	A	A	A				
Blue Star Coal Co.	Blue Star	2		F	C			C	D	D	C	D	D		D	B	B	B	B	A				
Bonner-Porter Coal Co.	Bonner-Porter	5		D	D			E	E	E	E	E	G	F	D	B	B	B	B	A				
Boyd Excel. Operating Co.	Boyd-Excelsior	5		D	G			H	H	H	H	H	I	G	D	B	B	B	B	A				
Boyd-Seward Coal Co.	Boyd No. 3	10		B											D	B	B	B	B	A				
Tom Bradford Coal Co.*	Bradford	6		E				F	F	F	F	F	H	E	D	B	B	B	B	A				
Buck Creek Coal Mining Co.	Buck Creek	5		F	F										D	B	B	B	B	A				
*Bill Burch Coal Company	Woodson	9		F	F										D	B	B	B	B	A				
A. Bussey Coal Co.*	No. 1	9		F	F										D	B	B	B	B	A				
Callahan & Ramey Coal Co.	Dawes	3		E	A			C							D	B	B	B	B	A				
Carbon Coal Co. No. 1	No. 1	3		A	C			A	B	B	A	C	E	C	D	B	B	B	B	A				
Carbon Coal Co. No. 2	No. 2	3		E	A			C							D	B	B	B	B	A				
Carter-Templeton Coal Co.	Brown	4		E	F			A	G	G	G	K	E	E	D	B	B	B	B	A				
Caston-Creek Coal Co.	Caston Creek	8		E	F			A	G	G	G	K	E	E	D	B	B	B	B	A				
Charleston Coal Co.	Charleston	4		E	E			F	F	F	F	F	H	E	D	B	B	B	B	A				
A. D. Clark Coal Co.	Woodson	6		E	D			F	F	F	F	F	H	E	D	B	B	B	B	A				
A. D. Clark Coal Co.	Bates	9		F	D			E	E	E	E	E	G	F	D	B	B	B	B	A				
Clay Coal Co. #	Clay	5		F	C										D	B	B	B	B	A				
Coeleale Smokeless Coal Co.	No name	9		F	C										D	B	B	B	B	A				
Coleman Coal Company	Coleman	4		E	A			C							D	B	B	B	B	A				
Collier-Dunlap Coal Co.	Collier-Dunlap	1		E	B			B	A	A	B	A	A	A	A	A	A	A	A	A				
Couch Coal Company #	Couch	5		F											D	B	B	B	B	A				
Dane Coal Company	Dane	8		F				G	G	G	G	H	E	E	D	B	B	B	B	A				
Davis & Swindle Coal Co.	D&S Mine	7		E											D	B	B	B	B	A				
Dawes Bros. Coal Co.	Dawes No. 1	3		E											D	B	B	B	B	A				
Dixie Fuel Company	Dixie	9		A	D			A	B	B	A	C	C	B	D	B	B	B	B	A				
Diamond Anthracite Coal Co.	Diamond	7		D	D			D	C	C	E	H	B	B	B	B	B	B	B	A				
Eastern Coal Company	Eastern	1		D											D	B	B	B	B	A				
Eastern Excelsior Coal Co.	Eastern	5		D	C			E	E	E	E	E	G	F	D	B	B	B	B	A				
Economy Coal Company	Economy	3		D	C			C	D	D	C	E	D		D	B	B	B	B	A				
Lee Elder Coal Company	No. 1	9		E	A										D	B	B	B	B	A				
John H. Elery Coal Co.	Elery	2		A	G			H	H	H					D	B	B	B	B	A				
Emerson Coal Company	Emerson	1		A	A										C	A	B	C	C	A				
Eureka Coal Company	Eureka	3		A	D			A	B	E	B	A	C	F	D	B	B	B	B	A				
Excelsior Mining Corp.	Boyd No. 1	5		D	D			E	E	E	E	E	G	F	D	B	B	B	B	A				
Excelsior Smokeless Coal Co.	Excel. Smo. No. 1	5		D	I			K	K	K	K	J	K	H	D	B	B	B	B	A				
Excelsior Thin Vein Coal Co.	Excel. Smo. No. 2	5		C											D	B	B	B	B	A				
Excelsior Valley Coal Co.	Excel. Valley	5		F											D	B	B	B	B	A				
Farley & Dallron Coal Co. #	No. 1	1		F											D	B	B	B	B	A				
Fernwood Coal Mining Co.	Fernwood	5		B				B	A	A	B	A	A	A	A	A	A	A	A	A				
Fert Smith-Bonanza Coal Co.	No. 1, 2-135	5		E	L			N	N	N	N	M	L	K	D	B	B	B	B	A				
Perry Freeman Coal Co. #	No. 1	5		F											D	B	B	B	B	A				
Gabbard & Gaston Coal Co.	Old Victor	3		F											D	B	B	B	B	A				
Garland Coal Mining Co.	Garland	10		E				F	F	F	F	G	F	F	D	B	B	B	B	A				
Gillie Coal Company	No. 5	7		F											D	B	B	B	B	A				
Goodin Coal Company #	Goodin	5		B											D	B	B	B	B	A				
L. R. Gragg Coal Co.*	Gragg	10		H				K	K	K	K	I	I	F	D	B	B	B	B	A				
Great Western Coal Co.	Great Western	5		A	G			H	H	H	H				D	B	B	B	B	A				
Green Coal Company	Green	2		A	G			H	H	H	H				D	B	B	B	B	A				
Grigg & Blaylock Coal Co.	Grigg-Blaylock	2		A	G			H	H	H	H				D	B	B	B	B	A				
Green Coal Company #	Green	5		D	F										D	B	B	B	B	A				
Hammond Coal Company	Hammond	7		B				B	A	A	B	A	A	A	A	A	A	A	A	A				
Harding Coal Company	Harding	1		B				B	A	A	B	A	A	A	A	A	A	A	A	A				
Henson Coal Company*	Henson Strip	10		B											D	B	B	B	B	A				
Hiawatha Coal Company	Herbert	9		E											D	B	B	B	B	A				
A. M. Hobbs Coal Co.	Old No. 4	5		E											D	B	B	B	B	A				
M. J. Hobbs & Son Coal Co.	Hobbs Mine	5		E											D	B	B	B	B	A				
Hulvey Coal Company*	Hulvey	10		B											D	B	B	B	B	A				
Hundley Coal Company	Sans Bois No. 9	7		J				M	M	M	L	L	L	I	D	B	B	B	B	A				
Hunter Coal Company #	No. 3	5		F				C	D	D	C	E	D		D	B	B	B	B	A				
Ideal Coal Company	No. 1	3		D				C							D	B	B	B	B	A				
Independent Coal Company	Independent	7		A											D	B	B	B	B	A				
Jewel Mining Company	Jewel	3		F				A							D	B	B	B	B	A				
Jink Jones Coal Company #	No. 1	3		D				E							D	B	B	B	B	A				
Jones Coal Company	Jones	7		E				F	F	F	F	D	F	E	C	B	B	B	B	A				
K. & S. Coal Company	K & S	11		B											D	B	B	B	B	A				
Kanima Smithing Coal Co. #	No. 3	10		E				F	F	F	F	G	F	F	D	B	B	B	B	A				
Keener Mining Co.	Keener	7		A				A							D	B	B	B	B	A				
Keeton & Maggard Coal Co.	Keeton-Magg	2		A				A							D	B	B	B	B	A				
Henley Kirby Coal Co.	Kirby	1		A				G							D	B	B	B	B	A				
Perry King Coal Co.	Perry King	4		E				C							D	B	B	B	B	A				
Bill Koch Coal Co.	Koch	3		C											D	B	B	B	B	A				
J. S. Kuykendall Coal Co.	Red Turkey	3		C				F							D	B	B	B	B	A				
LeFlore-Poteau Coal Co.	No. 1	3		E				G	G	G	G	H	E		D	B	B	B	B	A				
Lewis Coal Company	No. 12	7		F											D	B	B	B	B	A				
Lewis & Rush Coal Co. #	Lewis & Rush	5		E											D	B	B	B	B	A				
Lewis Bros. Coal Co.	No name	1		A				A							D	B	B	B	B	A				
Liberty Coal Company	Liberty	2		C				C	D	D	C	D	D		D	B	B	B	B	A				
Litchford & McGlowen Coal Co. #	No. 1	1		F											D	B	B	B	B	A				
Little Ben Coal Company	Maestle	5		H				I	I	I	I	I	I	E	D	B	B	B	B	A				

#Indicates price on *Pillar and Stained Coal*.

\*Indicates Smithing Coal (if sacked) \$1.50 per ton extra.



**Alphabetical List of Code Members Showing Price Classification by Sizes for All Uses Except as Separately Shown—Continued**

Code member	Mine name	Subdist. No.	Price classifications and size group Nos.																		
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
Little Three Coal Company#	Little Three	5			F											B			Q	A	
Looper Coal Company#	Looper	5			F											B			Q	A	
Mack Coal Company	Mack	3				A		A	B	B	A	C	C			D	B	C	C	A	A
Mars Coal Company	Mars	1	A	A												C	A	A	A		
Meyers Coal Company	Meyers	7			D											B			Q	A	
Midway Coal Company*	Midway	10			B											B			Q	A	
Midland Coal Mining Co.	Midland	5			H			I	I	I	I	J	E			D	B	B	B	A	I
R. J. Moore Coal Co.	None	3			C	E										B			P	A	
John B. Mumey Coal Co.	East	5			E	F										B			Q	A	
John B. Mumey Coal Co.#	West	5			E	F										B			Q	A	
S. A. McAdoo Coal Co.	McAdoo	5			E	F										B			Q	A	
Geo. McAlpine Coal Co.*	McAlpine	10			B											B			Q	A	
D. A. McKinney Coal Co.	McKinney	1			D			D	C	C	E	B	B	B		B	A	A	A	A	A
New Excelsior Coal Co.	New Excelsior	5			O											B			P	A	
New Shockley Coal Co.	Shockley	3			A			A	B	B	A	C	C			D	B	C	C	A	A
New Superfuel Coal Co.	Superfuel	3			A			A	B	B	A	C	C			D	B	C	C	A	A
New Union Coal Company	New Union	3			A	G		H	H	H						D	B	C	C	A	A
Roy Nichols Coal Co.	Nichols	2			D											B			Q	A	
North Milton Coal Co.	None	7			C											B			Q	A	
Oliver-McGuire Coal Co.	Oliver-McGuire	5			C											B			Q	A	
Paris Development Co.	Horseshoe	3			A			A	B	B	A	C	C			D	B	C	C	A	A
Paris Purity Coal Co.	Grand No. 3	3			A			A	B	B	A	C	C			D	B	C	C	A	A
Peerless Coal Co.	Peerless	5			I			J	J	J	J	K	H			D	B	B	B	A	O
Petty-McChain Coal Co.#	Petty	5			F											B			Q	A	
Philpott Valley Coal Co.	Philpott Valley	2			B	K		L	L	L						D	B	B	B	A	E
Pioneer Coal Company	Pioneer	7			F	A		G	G	G	G	K	E			D	B	B	B	A	E
Premium Smokeless Coal Co.	No. 17	2			J	B		M	M	M	L	L	I			D	B	B	B	A	O
Quality Coal Co.	Quality No. 1	2			A			E	E	E	E	G	H	F		D	B	B	B	A	J
Quality Coal Co.	Quality No. 2	5			F			G	G	G	G	H	E			D	B	B	B	A	J
Quality Coal Co.	Quality	5			F			G	G	G	G	H	E			D	B	B	B	A	J
Ra-Ja-Da Anthr. Coal Co.	Ra-Ja-Da	1			B			B	A	A	B	A	A	A		A	A	A	A	A	A
Chas. Rogers Coal Co.*	Rogers No. 1	10			B											B			Q	A	
Wm. Rogers Coal Co.*	Rogers	10			B											B			Q	A	
Royal Smokeless Coal Co.	Royal	8			F			G	G	G	G	H	E			D	B	B	B	A	E
Royal Superior Coal Min. Co.	Royal Superior	9			C											B			Q	A	
Russell-Grayston Coal Co.	None	7			D											B			Q	A	
S.A.R. Coal Company	S.A.R.	7			D											B			Q	A	
Sharp Coal Company#	Sharp	5			F											B			Q	A	
Shower Creek Coal Co.*	Shower Creek	10			B											B			Q	A	
Skidmore Bros. Coal Co.	Skidmore Bros.	1	A	A												C	A	A	A	A	A
Smith Coal Co.	Smith	1	A	A												C	A	A	A	A	A
R. H. Smith Coal Co.	R. H. Smith	2			C			C	D	D	C	D	D			D	B	B	B	A	F
S. W. Smith Coal Co.	S. W. Smith	2			A	G		H	H	H						D	B			I	A
Smokeless Coal Co.	Smokeless Nos. 1 and 2	1			B			B	A	A	B	A	A	A		A	A	A	A	A	A
Spessard & Henry Coal Co.#	No. 1	5			F											B			Q	A	
Stanfill Coal Co.#	Stanfill	5			F											B			Q	A	
Stewart Coal Co.	Mine No. 2	2			C	L										B			Q	A	
Stewart Smokeless Coal Co.	2 1/2 Denning	2			C			C	D	D	C	D	D			D	B	B	B	A	F
Stimmet Coal Co.	Stimmet	7			D											B			Q	A	
Sublett Coal Co.	Sublett	5			C											B			Q	A	
Sugar Creek Coal Co.	No. 1	9			C											B			Q	A	
Sullivan Coal Co.	Sullivan	3			A			A	B	B	A	C	C			D	B	C	C	A	B
Sun Smokeless Coal Co.	Sun	5			D			E	E	E	E	G	F			D	B	B	B	A	J
Timms Herndon Coal Co.#	No name	5			F											B			Q	A	
Robt. Thompson Coal Co.	Thompson	2			A											B			Q	A	
Triple C Coal Co.#	Sweeney	7			E											B			Q	A	
S. A. Tucker Coal Co.	Tucker	3			C											B			Q	A	
John Turner Coal Co.	No. 2	5			F											B			Q	A	
J. F. Turnipseed Coal Co.	Nos. 1-2 and 3	8			F			G	G	G	G	H	E			D	B	B	B	A	E
Vandermeulen Coal Mng. Co.#	Vandermeulen	5			F											B			Q	A	
Victor Coal Co.	Victor	3			C			C	D	D	C	D	D			D	B	C	C	A	C
Watson Coal Co.	Watson	3			A			A	B	B	A	C	C			D	B	C	C	A	B
Weaver & Knauts Coal Co.#	No. 1	5			F											B			Q	A	
Western Coal Co.	Powell	7			J	B		M	M	M	L	L	I			D	B	B	B	A	O
White Pullet Coal Co.	White Pullet	2			E											B			Q	A	
Wilson Coal Co.	No. 8	7			D											B			Q	A	
Yaffe-Excelsior Coal Mng. Co.	Yaffe	5			G			H	H	H	H	I	G			D	B	B	B	N	A
R. A. Young & Son Coal Co.	No. 19	5			H			I	I	I	I	J	E			D	B	B	B	A	I

#Indicates price on Pillar and Stained Coal.

\*Indicates Smithing Coal (if sacked) \$1.50 per ton extra.

**District No. 14.—Price for Shipment Into All Market Areas**

Price classification	Price in cents per ton of 2,000 pounds and size group numbers																				
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
A	450	425	425	480	410	480	485	495	455	520	520	495	460	200	200	200	185	450	250	165	500
B			400	465	405	470	480	480	440	500	500	475	440	135	115	105		445			
C			385	460		460	465	475	435	405	390		250		90	80		435			
D			370	445		450	460	460	430	395	370		200					415			
E			355	435		445	445	445	420	385	365							390			
F			335	430		435	435	435	410	380	355							385			
G				425		430	430	430	405	370	335							365			
H				420		425	425	425	400	360	325							360			
I				415		420	420	420	395	350	315							350			
J				405		415	415	415	390	345	310							345			
K				400		405	405	405	385	340								340			
L				385		400	400	400	380	330								335			
M						395	395	395	375	330								330			
N						385	385	385		295								325			
O																		315			
P																		280			
Q																		270			

NOTE.—See Price Instructions and Exceptions.

**COMMON CONSUMING MARKET AREAS PROPOSED BY DISTRICT BOARD NO. 14**

**Area No. 1.**—Includes the States of Arkansas, Iowa, Kansas, Louisiana, Missouri, Nebraska, Oklahoma and Texas.

**Area No. 2.**—Includes the States of Minnesota, North Dakota, and South Dakota.

**Area No. 3.**—Includes the States of Illinois, Western Mississippi, Western Tennessee, and Wisconsin.

**MINIMUM PRICE AREA NO. 4—DISTRICT NO. 14**

**PROPOSED MARKETING RULES AND REGULATIONS**

A witness for District Board No. 14, properly qualified as an expert in the marketing of coal in that District, introduced into evidence as Exhibit No. 829 the rules and regulations proposed by District Board No. 14 in compliance with Commission Order No. 250. The witness testified that these rules and regulations were properly submitted to the Code Members within said District and that no protests concerning such proposals were received from Code Members. Accordingly, the Board, on August 26, 1938, adopted said rules and regulations and later submitted them to the Commission.

The witness testified that he was thoroughly familiar with the testimony of Mr. Brown, the expert witness for the Marketing Division of the Commission, and that the clarifications, modifications and additions to District No. 14's proposed rules, as testified to by Mr. Brown, were reasonable and desirable. The witness further stated that the rules testified to by Mr. Brown, as contained in Exhibit No. 825, would better effectuate the purposes of the rules proposed by District Board No. 14, and that in his opinion the rules proposed by District Board No. 14 should be modified to conform to the rules contained in Exhibit No. 825.

Rule 1 (b), Section IV of Exhibit No. 825, reads as follows:

"For deliveries thereafter, at not less than the applicable minimum prices in effect at the time of delivery."

The expert witness for the Marketing Division testified that this rule was written for the purpose of minimizing the injustice that might otherwise result from the privilege to make contracts in excess of thirty (30) days with governmental agencies that purchased through competitive bidding. We are of the opinion that the purposes of this rule will be better effectuated if the rule is modified to read as follows:

"For deliveries thereafter, at not less than the applicable minimum prices in effect at the time of delivery if such price is higher than the contract price."

Rule 1 (I), Section VII, of Exhibit No. 825, reads as follows:

"Where payment is made by note, trade acceptance or other form of in-



debtedness, or where payment is made under any circumstances after the due date of the account, the seller shall charge and the buyer shall pay interest at not less than the current market rate from and after the due date of the account."

We are of the opinion that this rule should be clarified to read as follows:

"Where payment is made by note, trade acceptance or other form of indebtedness, or where payment is made under any circumstances after the due date of the account, the seller shall charge and the buyer shall pay interest from and after the due date of the account at the current rate in the locality to which the coal is shipped to the vendee."

Rule 1, under "Advertising," Section XI of Exhibit No. 825, provides that no deduction or allowance from invoice prices shall be granted by any Code Member or his sales agent to any purchaser for advertising which would have the effect of reducing the invoice price below the applicable minimum price. District Board No. 14 in Exhibit 829 proposes a rule which prohibits any deduction or allowance whatsoever from invoice prices for advertising. We are of the opinion that such a rule better effectuates the purposes of the Act and that the similar rule contained in Exhibit No. 825 should be modified accordingly.

Rule 2 under "Advertising," Section XI of Exhibit No. 825, provides:

"The price and fair trade practice provisions of the Act shall not be evaded by any payment or allowance by any Code Member, his agent, or representative, to any purchaser or purchaser's representative covering advertising. The amount of expenditures incurred by a Code Member, his agent or representative, for advertising shall be subject to review by the Coal Commission as to the good faith of the transaction."

We are of the opinion that this rule should be modified to read as follows:

"Code Members (or their agents or representatives) either individually or collectively, with or without financial participation by retailers of coal, may conduct advertising campaigns seeking to increase the use of coal. The amount of expenditures incurred by a Code Member, his agent or representative for advertising shall be subject to review by the Coal Commission as to the good faith of the transaction."

Rule 1 under "Coal Confiscated or Lost in transit," Section XI of Exhibit No. 825, provides:

"All coal confiscated or lost in transit shall be invoiced to the carrier at not less than the established minimum price therefore."

We are of the opinion that this rule should be clarified to read as follows:

"All coal confiscated or lost in transit shall be invoiced to the carrier at not less than the minimum price established for such coal for shipment to the destination and use to which the coal was sold or the established price for sale to the carrier at the place of confiscation or loss, whichever may be the higher."

The witness for the Marketing Division testified that Exhibit No. 825 contained no rules relating to substitution or the crushing of coal. The witness further stated that the Exhibit is not to be construed as representing any modifications or deletions of such rules as they may have been proposed by the various District Boards. District Board No. 14 proposed rules relating to the crushing and pulverizing of coal in Section X of Exhibit No. 829, and we are of the opinion that these rules are reasonable and desirable with the exception of rule 4. This rule, in effect, proposes a different price for crushed or pulverized coal and we are of the opinion that such a rule, pertaining to price proposal, is not properly submitted as a marketing rule and regulation. Therefore, this rule should be deleted.

The expert witness for the Marketing Division testified that in his opinion the rules contained in Exhibit No. 825 represented clarifications and desirable modifications of the rules proposed by the various District Boards and that such rules were reasonable, not inconsistent with the provisions of Section 4 of the Act and were in conformity with the standards of fair competition contained in the Act.

With the exception of those rules which we have already stated should be modified, we are of the opinion that the rules contained in Exhibit No. 825 are in accordance with the standards governing Marketing Rules and Regulations contained in Section 4 II (a) of the Act. These rules, according to the testimony of the expert witness for District No. 14, are desirable and reasonable and would better effectuate the purposes of the rules and regulations proposed by District No. 14.

Accordingly, we find that the following rules and regulations incidental to the sale and distribution of coal by Code Members in District No. 14 are reasonable, not inconsistent with the requirements of Section 4 of the Act, and in conformance with the standards of fair competition established in the Act:

MARKETING RULES AND REGULATIONS INCIDENTAL TO THE SALE AND DISTRIBUTION OF COAL BY CODE MEMBERS WITHIN DISTRICT NO. 14 AS PROPOSED BY DISTRICT BOARD NO. 14 AND AS APPROVED, DISAPPROVED, OR MODIFIED FOR THE PURPOSE OF COORDINATION

#### Section I—Definitions

1. The term "person" as used herein, includes individuals, firms, associations, partnerships, corporations, trusts, trustees, cooperatives, receivers and trustees

in bankruptcy and in other legal proceedings, and any other recognized forms of business organizations.

2. A "sales agent" is a person who, as agent of a code member (and therefore without purchasing the coal), sells coal produced by such code member for him or on his behalf: *Provided*, That "sales agent" shall not include an individual (herein referred to as a "salesman") regularly and continuously employed by a code member, whose sole compensation is a stated salary per week, per month, or per year, and who regularly devotes the major portion of his time to the solicitation of purchases of coal produced by his code member employer.

3. A "commission" is the total of all compensations and allowances received by a sales agent from a code member for services rendered in the sale of coal.

4. A "registered distributor" is a person who has been duly registered by the Coal Commission pursuant to the rules and regulations prescribed by the Commission for the administration of Section 4 II (h) of the Act.

5. A "spot order" is a legal obligation for the sale and purchase of coal, the delivery of which is stipulated to be made within not more than thirty (30) days from the effective date of the order, such effective date to be not more than fifteen (15) days from the date upon which the order was accepted.

6. A "contract" is a legal obligation for the sale and purchase of coal, the deliveries of which are stipulated to be made during a period longer than the maximum period specified for a spot order.

7. A "quotation" is an offer to sell coal which the offeror may withdraw prior to its being acted upon by the offeree.

8. An "option" is an offer to sell coal acceptable within a time certain, during which time the offeror may not withdraw the offer without the consent of the offeree.

9. A "commitment" is the status of a contract between the time a quotation is accepted or an option is exercised and the time the contract is formally reduced to writing.

10. "Coal Commission" as used herein, shall mean the National Bituminous Coal Commission established under the provisions of the Bituminous Coal Act of 1937.

11. "Act" as used herein shall mean the Bituminous Coal Act of 1937.

12. "Retailing" is the buying of coal for resale and selling such coal in lots or upon conditions other than those which would entitle a person to be registered with the Coal Commission as a distributor under Section 4 II (h) of the Act.

13. "District Board" as used herein, shall mean any District Board established under the provisions of Section 4, Part I (a) of the Act.

14. "Statistical Bureau" shall mean, unless otherwise specifically stated, the



Statistical Bureau of the Commission for the District in which the coal involved in any transaction is produced, or the District in which is located a mine of a code member affected by any order or regulation.

15. "Minimum Price" shall mean a minimum price established and made effective by the Coal Commission.

16. "Maximum Price" shall mean a maximum price established and made effective by the Coal Commission.

17. The term "producer" includes all individuals, firms, associations, corporations, trustees, and receivers engaged in the business of mining coal.

18. The terms "reconsignment" and "diversion" as used herein shall mean the change in the original consignee or in the destination or route.

19. The term "transportation facilities" means railroad cars, ships, barges, trucks, or any other facilities used or useful in the transportation of coal.

20. A "code member" means a producer who has accepted and holds membership in the Bituminous Coal Code promulgated under the Bituminous Coal Act of 1937.

21. The term "domestic market" shall include all points within the continental United States and Canada, and car-ferry shipments to the Island of Cuba. Bunker coal delivered to steamships for consumption thereon shall be regarded as shipped within the domestic market.

22. "Cargo shipment" is a quantity of coal loaded in a vessel, boat, or barge for transportation via water.

23. "Bunker coal" or "vessel fuel" is that coal used aboard a boat or vessel for consumption thereon.

24. "Coal" as used herein shall mean bituminous coal.

25. The term "bituminous coal" includes all bituminous, semi-bituminous and sub-bituminous coal and shall exclude lignite, which is defined as a lignitic coal having calorific value in British thermal units of less than seven thousand six hundred per pound and having a natural moisture content in place in the mine of 30 per centum or more.

26. The term "control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

#### Section II—Sales Agents

1. All appointments of Sales Agents by Code Members or their agents or authorized representatives shall be subject to the Marketing Rules and Regulations from time to time established by the Coal Commission.

2. Each Code Member shall be responsible for the compliance by all his Sales Agents and agents and employees of Sales Agents and agents with the provisions of the Bituminous Coal Code and

of all rules and regulations, promulgations and determinations of the Coal Commission.

3. Each Code Member shall require all his sales agents clearly to set forth upon any offer, contract, spot order, invoice, and statement of account covering coal sold or to be sold, the name of such Code Member principal, and the name of the mine or mines from which shipment was made or is to be made. If the name of the sales agent also appears in the transaction, then the above mentioned forms shall also disclose the fact of agency relationship with the Code Member principal.

4. (A) Every contract for the appointment of a sales agent by Code Members or by agents or authorized representatives of Code Members, or any modification thereof, shall be in writing, and shall fully set forth therein all the terms and conditions of such contract, including the amount or basis of the sales agent's Commission. Certified copies of all such agency contracts entered into on or prior to the effective date of the establishment of these rules and regulations and in effect on such date, shall be filed by the Code Member with the Statistical Bureau, or Bureaus, within twenty (20) business days after such date.

(B) Certified copies of all contracts appointing sales agents or of agreements modifying any sales agency contract, entered into subsequent to the effective date of these rules and regulations, shall be similarly filed by the Code Member within ten (10) business days after the date upon which such contracts or agreements have been entered into.

(C) Upon the expiration, termination, or rescission of any sales agency contract, the Code Member principal shall make a report thereof to the Statistical Bureau, or Bureaus, within ten (10) business days after the date of such expiration, termination, or rescission.

5. (A) As to all coal sold by a Code Member otherwise than through a sales agent or through an employee regularly employed as a salesman by the Code Member at his principal place of business or at a regularly established sales office, such Code Member shall, not later than the fifteenth day of each month, file with the Statistical Bureau, or Bureaus, a list of all persons through whom, directly or indirectly, any such coal was sold during the preceding calendar month, with a statement of the duration and character of their employment, the tonnage sold by, and the rate and amount of compensation paid to, each of them.

(B) Not later than the fifteenth day of each month, each Code Member shall also file with the Statistical Bureau, or Bureaus, similar information obtained from his sales agents concerning sales of coal made during the preceding calendar month, by the sales agents' representa-

tives and employees other than salesmen employed at the principal place of business or a regularly established sales office of the sales agent.

(C) Not later than the fifteenth day of each month, each Code Member shall also file with the Statistical Bureau or Bureaus a statement showing the names and addresses of distributors to whom the Code Member or his sales agents sold coal during the preceding calendar month, the tonnage sold, and the amount of discount allowed to each such distributor.

6. Within twenty (20) business days after the effective date of these rules and regulations, each Code Member shall file with the Coal Commission a list showing the names and addresses of all his sales agents. Upon any change in said list, the Code Member shall notify the Coal Commission within ten (10) business days after such change takes place.

7. A list showing the names and addresses of sales agents and the Code Members for whom such agents act shall be published monthly by the Coal Commission.

8. All agency contracts and other information filed by Code Members in conformity with the foregoing regulations, other than the names and addresses of sales agents, shall be held by the Coal Commission as the confidential records of said parties and shall not be made public without the consent of the Code Member from whom the same shall have been obtained, except where such disclosure is required in any proceeding before the Coal Commission by way of enforcement of the Act or upon the order of any court of competent jurisdiction.

9. From and after twenty\* (20) business days following the effective date of these Marketing Rules and Regulations no Code Member or sales agent of a Code Member shall allow or pay, directly or indirectly, any commission or compensation to any sales agent

(a) Unless the contract of agency shall have been filed with the Coal Commission, as hereinbefore required, and

(b) Unless the sales agent shall have agreed, in writing, with the Code Member to conform to and observe the minimum and maximum prices and Marketing Rules and Regulations established by the Coal Commission and the Fair Trade Practice Provisions of the Act, as well as all proper Orders of the Commission, and

(c) Unless the sales agent shall have in good faith complied with the agreement as in paragraph (b) above provided.

10. No commission shall be paid to a sales agent by a Code Member where the coal is delivered or sold to any person who owns such sales agent or who financially or otherwise controls such agent.

11. When any commissions are paid to a sales agent on a tonnage basis, the Code Member shall not include in the



computation of such commissions any part of the tonnage of coal sold by him to the sales agent, whether for consumption or resale.

12. No Code Member shall employ any person or appoint any sales agent at a compensation obviously disproportionate to the ordinary value of the service or services rendered and whose employment or appointment is made with the primary intention and purpose of securing a preferment with a purchaser or purchasers of coal.

13. Subject to further order of the Coal Commission, the amount of commission to be paid by a Code Member to his sales agent shall be fixed by agreement of the parties, subject, however, that upon complaint of violation of the unfair methods of competition, as provided in the Act, the amount of such commission shall be subject to review by the Coal Commission.

#### Section III—Discounts

1. No Code Member or sales agent of a Code Member shall pay or allow any discount from minimum prices to any person unless such person has been registered by the Coal Commission as authorized to receive such discount at the time of the sale.

2. Code Members or their sales agents may allow discount from minimum prices or sales of coal to registered distributors, not in excess of the maximum discount or price allowance prescribed by the Coal Commission upon such sales. Only one such discount may be allowed on any such sale.

3. Except as expressly authorized in rules and regulations or orders promulgated by the Coal Commission, no Code Member or sales agent may grant or allow any discount or reduction, including any allowance for shipping on a Government Bill of Lading, from the applicable minimum prices upon the sale of coal to any person, including agencies of the Federal Government or agencies of state or local governments.

4. Every sale of coal to a distributor upon which a discount is allowed shall be made subject to the express condition that the distributor is authorized to receive the discount.

#### Section IV—Limitation of Orders, Agreements, Options, and Quotations

1. Subject to further order of the Coal Commission no Code Member or sales agent of the Code Member shall enter into any agreement or order for the sale of coal providing for delivery for a period in excess of that authorized for a spot order, and no prices shall be less than the applicable minimum prices in effect at the time of the making of the agreement or order: *Provided*, however, that contracts for periods not exceeding one (1) year may be made with agencies of the Federal Government or with agencies of State or local governments, where the contract is entered into through com-

petitive bidding, at the following applicable minimum prices:

(a) For deliveries during the first thirty (30) days of the contract, at not less than the applicable minimum prices in effect at the time of the making of the agreement;

(b) For deliveries thereafter, at not less than the applicable minimum prices in effect at the time of delivery if such price is higher than the contract price.

*Provided, further*, That contracts for periods not exceeding one (1) year at prices not less than the said applicable minimum prices may be made with agencies of the Federal Government or with such agencies of the State or local governments, in the absence of competitive bidding, where by virtue of an express exemption in the statute or ordinance such agencies may enter into contracts for the purchase of coal without regard to competitive bidding.

2. While the preceding rule is in effect, no option may be given by a Code Member or sales agent for the purchase of coal. When the above rule is suspended or revoked by the Coal Commission, options for the sale of coal may be given for a period not exceeding fourteen (14) days. No options may be given at a price less than the applicable minimum price in effect at the time of the giving of the option. If the applicable minimum price is increased beyond the quoted price within such fourteen (14) days and the option shall not have been exercised at that time, the option thereupon shall become null and void; *Provided, however*, That in connection with offers to sell to the United States Government, or States or political subdivisions thereof, options may be given for a period not exceeding forty-five (45) days from the date of the offer or from the final date for the filing of offers.

3. Quotations may also be given for a period of not exceeding fourteen (14) days. If the applicable minimum price is increased beyond the quoted price within such fourteen (14) days and the quotation shall not have been accepted at that time, the quotation thereupon shall become null and void.

4. Every quotation and option shall provide that it is made subject to the provisions of the Marketing Rules and Regulations of the Coal Commission.

5. All quotations and options must be made or confirmed in writing. Every Code Member, or his sales agent, shall require of his offeree that the acceptance of a quotation or the exercise of an option be in writing.

#### Section V—Spot Orders

1. A spot order shall be in writing or confirmed in writing within five (5) business days from the date of the making thereof.

2. Each spot order shall be subject to the following conditions which shall either be endorsed upon the form of the order or upon the written confirmation

thereof by the Code Member or his sales agent, the meaning and effect of which shall not be changed or altered by any other provision of the order:

(a) "No shipment consigned to any destination may be reconsigned or diverted without the consent of the seller to be confirmed in writing. In case of any reconsignment or diversion, the seller shall charge and the buyer shall pay not less than the applicable minimum price for such coal at the time of the reconsignment or diversion for delivery to the destination to which such shipment is actually delivered and for the use to which it is actually applied."

(b) "The coal shipped pursuant to this order is sold and purchased upon the following conditions:

"(1) If the coal is sold for consumption, it shall be used in the plant or plants named herein and for the use stated herein;

"(2) In case of diversion by the buyer to a use other than that stated herein, the buyer shall notify the seller in writing and the seller shall charge and the buyer shall pay not less than the applicable minimum price for such coal at the time of diversion for the use to which it is actually applied."

(c) "If shipments called for by this order are not completed within thirty (30) days from the effective date of this order, the unfilled portion of the order shall not be delivered."

3. In any case where a sale is made by a sales agent of a Code Member, such sales agent shall not exercise the rights of the seller as defined in Item 2 (a) of this section without first securing the consent of his Code Member principal to be confirmed in writing.

4. All the terms and conditions of a sale of coal must be fully and expressly set forth either in the order or in the written confirmation thereof, and such order or written confirmation thereof shall specifically contain all the terms required by Rule 1 of Section VI of these Marketing Rules and Regulations. Within ten (10) business days after the date of the making of the spot order or date of the written confirmation thereof, the Code Member or his sales agent shall file with the Statistical Bureau or Bureaus a copy of such spot order or confirmation. Any modification of a spot order must also be made in writing and filed with the Statistical Bureau or Bureaus in the same manner.

5. All spot orders for the sale of coal, the minimum price of which is subject to seasonal increase, shall provide that the price payable thereunder shall not be less than the price to be in effect at time of delivery as established at the time of the making of the spot order.

#### Section VI—Contracts

Upon the revocation or suspension of rule 1 of Section IV of these Marketing



Rules and Regulations, Code Members or sales agents of Code Members may thereafter enter into contracts for the sale and delivery of coal upon the following terms and conditions:

1. Every contract shall be in writing and shall express the entire agreement between the parties. The contract shall clearly state the date of execution, the effective date, the expiration date, the price agreed upon, the terms of payment, the size and grade of coal, the number of cars or tonnage to be shipped, the name of the Code Member and the name of the originating mine, and, where the coal is purchased for consumption, the use to which the coal is to be applied. Contracts may also be made either (a) calling for a buyer's entire requirements or a stated percentage of his requirements, showing the maximum tonnage to be shipped thereunder, or (b) covering a buyer's requirements and stating the estimated tonnage to be shipped with an allowable overshipment of not exceeding ten (10) per cent of such estimated tonnage.

The provisions of the rule stated in the foregoing paragraph relating to quantity shall not apply to contracts made with agencies of the Federal, State or local governments in case the terms required to be submitted in a bid or offer for such contract are in conflict with such provisions.

2. No contract for the sale of coal shall provide for deliveries to commence at a date later than ninety (90) days from the date upon which such contract is entered into.

3. No contract shall be made at a price below the applicable minimum price as established by the Coal Commission at the time of the making of the contract for the coal to be sold thereunder, and no coal may be delivered upon a contract at a price below such applicable minimum price.

4. All contracts for the sale of coal the minimum price of which is subject to seasonal increase, shall provide that the price payable thereunder shall not be less than the price to be in effect at the time of delivery as established at the time of the making of the contract.

5. No contract shall provide for delivery over a period in excess of twelve (12) months except by special permission and approval of the Coal Commission, upon a showing of the necessity of meeting the long term contract competition of oil, gas, or other fuels or forms of power, or for such other reasons as the Commission may deem appropriate in order to further the effectual administration of the Act.

6. Any change in the terms of a contract, not in violation of these Rules and Regulations, shall be evidenced by a written agreement and shall conform to all the requirements set forth in these Rules and Regulations.

7. A report of every commitment shall be filed by the Code Member or his sales agent with the Statistical Bureau or Bureaus, within fifteen (15) business days from the date of the making of the agreement. Such report shall set forth all the terms and conditions of the commitment. A true copy of every contract and of any agreement for modification thereof shall be filed with the Statistical Bureau within fifteen (15) business days from the date of execution of such contract or agreement for modification: Provided, however, that a report of the commitment need not be filed if a copy of the contract is filed within fifteen (15) business days.

8. Each contract shall contain the following provisions, the meaning and effect of which shall not be changed or altered by any other provision of the contract:

"(a) This contract and the performance of all provisions thereof are expressly subject to the Bituminous Coal Act of 1937 and the proper orders and regulations issued thereunder by the National Bituminous Coal Commission."

"(b) No shipment consigned to any destination point may be reconsigned or diverted without the consent of the seller to be confirmed in writing. In case of any reconsignment or diversion, the seller shall charge and the buyer shall pay not less than the applicable minimum price for such coal at the time of the reconsignment or diversion for delivery to the destination to which such shipment is actually delivered and for the use to which it is actually applied."

"(c) The coal shipped pursuant to this contract is sold and purchased upon the following conditions:

"(1) If the coal is sold for consumption, it shall be used in the plant or plants named herein and for the use stated herein;

"(2) In case of diversion by the buyer to a use other than that stated herein, the buyer shall notify the seller in writing and the seller shall charge and the buyer shall pay not less than the applicable minimum price for such coal at the time of diversion for the use to which it is actually applied."

9. In any case where a contract is made by a sales agent of a Code Member, such sales agent shall not exercise the rights of the seller as defined in item 8 (b) of this section without first securing the consent of the Code Member producing such coal to be confirmed in writing.

10. The making of a contract for the sale of coal at a price below the minimum or above the maximum thereof established by the Commission at the time of the making of the contract shall constitute a violation of the code and such contract shall be invalid and unenforceable.

11. No contract shall be made for the sale of coal for delivery after the expiration date of the Act at a price below the

minimum or above the maximum therefor established by the Coal Commission and in effect at the time of making the contract.

#### Section VII—Terms of Payment

1. The price and fair trade practice provisions of the Act shall not be evaded or violated by a Code Member, or his sales agent, through the use of terms of payment, and in no instance shall terms of payment be more favorable than the following:

(A) On rail, river, ex-river, or truck shipments, the date of payment of invoices for coal sold shall be on or before the twentieth day of the month following the month in which shipment was made.

(B) On tidewater cargo shipments the date of payment shall be not more than thirty (30) days from date of vessel bill of lading, and where coal is sold f. o. b. mines for tidewater cargo shipment, on or before the twentieth day of the month following the month in which the coal is dumped.

(C) Payment for all tidewater Bunker coal supplied for foreign vessels shall be by cash on delivery or by master's draft on owners in United States currency at not exceeding fifteen (15) days' sight at supplier's option. When drafts are accepted in payment, all bank charges for collection, exchange, etc., shall be for owner's account. Payment for tidewater bunker coal supplied for American vessels shall be made on or before the twentieth day of the month following delivery.

Payment for coal shipped for vessel fuel, and delivering into vessels at ports on the Great Lakes or tributary waters thereof, shall be made on or before the twentieth (20th) day of the month following such delivery.

(D) On lake cargo shipments, the day of payment shall be not more than sixty (60) days from date of vessel bill of lading, and where coal is sold f. o. b. mines for lake cargo shipments, on or before the twentieth (20th) of the second month following the month in which dumped.

(E) On all coal sold to railroads, the date of payment shall be on or before the twenty-fifth (25th) day of the month following the date of shipment.

(F) Invoices shall be paid in full in United States currency, or funds equivalent thereto, not later than the due date.

(G) No portion of the sale price may be withheld by agreement between the buyer and the seller based upon any unadjusted claim of the buyer.

(H) No sale, delivery, or offer for sale of coal shall be made upon any condition, express or implied, that any portion of the sale price may be withheld by the buyer, or deposited in escrow, pending or based upon a determination of the constitutionality of any provision of the Act, of the jurisdiction of the Coal Commission, or the validity or applica-



bility of any order of the Coal Commission.

(I) Where payment is made by note, trade acceptance or other form of indebtedness, or where payment is made under any circumstances after the due date of the account, the seller shall charge and the buyer shall pay interest from and after the due date of the account at the current rate in the locality to which the coal is shipped to the vendee.

(J) Freight on all-rail or ex-river shipments shall not be paid by a Code Member, or his sales agent, except to prepay stations as published in current railway tariffs or on shipments to the United States Government, States or political subdivisions thereof. Where freight is thus prepaid, the amount thereof shall immediately upon receipt of freight bill or notice of sight draft payment, be invoiced to the buyer for immediate payment.

(K) No Code Member shall accept as payment in full for any account for the sale of coal any amount which is less than the applicable minimum price for the quantity of coal involved. Provided, however, that a Code Member may enter into a bona fide general creditors' composition with other creditors of a defaulting purchaser. A copy of such creditor's composition shall be filed with the Statistical Bureau within ten (10) business days from the date of making such composition.

(L) The agreement by a Code Member, expressed or implied, to extend the credit for a period longer than that authorized by these rules and regulations, with the effect of violating the price provisions or the unfair methods of competition of the Act, shall constitute a violation of the Code.

#### Section VIII—Use of Coal Analyses

1. Analyses of coal shall not be utilized by a Code Member, or his sales agent, in selling or offering for sale any coal produced by the Code Member, whether or not the analysis is a term in the offer or sale, unless such Code Member shall have filed with the Statistical Bureau and the District Board for the District in which the coal is produced, a report of the analysis or analyses as used or proposed to be used by him. Such report shall show the following:

- (a) The name of the Code Member producer.
- (b) The name of the mine.
- (c) The name or geological number of the seam or seams from which the coal is produced.

(d) The name of the size, and, if screened, the dimension or dimensions of the screen or screens over and/or through which the coal is prepared.

(e) Whether the analysis is representative of the entire production of such size of coal, or whether it represents only a portion of such production segregated by selective mining, selective preparation, actual analyses made at the mine, or in any other manner.

(f) That such analysis is representative of the grade and size of the coal as regularly produced by the Code Member and as loaded directly into transportation facilities for shipment to market and that the Code Member is prepared to make deliveries of coal of substantially the quality and character as shown by the analysis.

(g) That each such analysis is not less than a proximate analysis showing moisture content, ash, volatile matter, fixed carbon, sulphur and British thermal units and ash softening temperature.

2. Every analysis used in selling, or offering for sale, any particular kind, quality, or size of coal shall be accompanied by a statement to the effect that a copy of such analysis has been properly filed with the Statistical Bureau, the Coal Commission and the District Board.

3. All reports of analyses so filed shall be subject to inspection at the office of the Statistical Bureau at any time during office hours by any interested person, and may be considered by the District Board and the Coal Commission in determining from time to time proper classifications of the coals produced by the Code Member.

4. A copy of any analysis of the coal of a Code Member made by or on behalf of a consumer and accepted by the Code Member as the basis for an adjustment of price under any contract or spot order shall be filed by the Code Member with the Statistical Bureau, the Coal Commission and the District Board, within five (5) business days after such adjustment is made.

5. From and after the effective date of these Rules and Regulations, no Code Member shall enter into or perform any agreement made upon a penalty or a premium and penalty basis which will permit the sale of coal at an aggregate contract price below the applicable minimum price established by the Coal Commission for the coal sold and delivered upon such agreement subsequent to said effective date: Provided, that where a Code Member has entered into an agreement made upon a penalty or a premium and penalty basis, this rule shall not be considered as affecting any claim that the buyer might otherwise have had for sub-standard preparation or quality under Section X of these Marketing Rules and Regulations.

#### Section IX—Resale of Coal Refused in Transit or at Destination

1. Where coal is refused by a consignee in transit or at destination, the Code Member may sell the same at the best obtainable price, provided that in each case the Code Member shall file with the Statistical Bureau, and the District Board for the District in which the coal was produced, within five (5) business days from the date of such resale, a statement giving the following information:

- (a) Name of consignee.
- (b) Address of the consignee.

- (c) Original destination of the coal.
- (d) Name of Code Member.
- (e) Originating mine.
- (f) The grade and size of coal shipped.
- (g) Price at which coal sold.
- (h) Reasons for the refusal.
- (i) Facts resulting from the investigation of the complaint.
- (j) Name of ultimate purchaser upon resale.
- (k) Address of purchaser upon resale.
- (l) Ultimate destination of the coal.
- (m) Price received by the seller upon resale.

(n) Amount of commission, if any, paid upon the resale.

(o) A copy of the carrier's notice of refusal or a notice of reconsignment and such other pertinent information and facts as may be offered in proof of the necessity for such resale.

(p) A signed and verified statement that the provisions of the Code and the Marketing Rules and Regulations of the Coal Commission other than as to price have not been violated or evaded.

2. All Code Members shall properly furnish to the District Board and to the Statistical Bureau of the Coal Commission for the District in which the coal originated, full reports of all reconsignments, and shall authorize the carrier making such reconsignments to furnish complete information thereon to such Statistical Bureau.

#### Section X—Substandard Preparation or Quality

1. Where any claim of allowance or counterclaim is requested by a buyer for any delivery of coal claimed to be substandard in preparation or quality, or where it is claimed by the buyer that due to an error on the part of the shipper the buyer has incurred additional and extraordinary expense in accepting the shipment, the Code Member or his sales agent may, within a reasonable time after delivery of the coal, make settlement and agree with the buyer upon an amount reasonably to be deducted for such inferior coal or on account of such error, and may accept payment therefor at less than the applicable minimum price: Provided, that in each such case the Code Member shall within five (5) business days after granting such allowance file with the District Board and the Statistical Bureau of the Coal Commission a verified statement giving the following information:

(a) The name and address of the consignee and the reason for the request for the allowance.

(b) The price at which the coal was sold, the tonnage delivered, the name of the mine, the Code Member, the date of shipment, the grade and size of coal, the destination, and the amount of allowance or adjustment made.

(c) Such other pertinent information and facts as may be offered in proof of the necessity for such reduction or allowance.



(d) A statement that the adjustment has not been made with the purpose or intent of evading the price provisions of the Act.

The Code Member shall also file, together with the statement, a written claim duly executed by or on behalf of the buyer and verified by affidavit, setting forth the amount claimed by way of deduction and the reason for the complaint.

2. All such adjustments and allowances shall be subject to review by the Coal Commission.

#### Section XI—Crushing and Pulverizing Coal

1. Each code member who maintains and operates at his mine or at any facility used in preparing coals for market, any crushing or pulverizing device, shall register such device with the Statistical Bureau of the Coal Commission, on or before the \_\_\_\_\_ day of \_\_\_\_\_ on forms submitted by the Coal Commission.

2. Such forms shall include the following:

1. Name and address of code member.
2. Name of mine or facility at which device is located.
3. Name and style or type of crushing or pulverizing device.
4. Hourly capacity of device.
5. Sizes of coal which device can crush or pulverize.
6. Sizes of coal resulting from crushing or pulverizing.
7. Number of tons crushed in 1937 and in each month of 1938.
8. Cost per ton of crushing or pulverizing in 1937.

3. Beginning with the month of \_\_\_\_\_ each code member shall on or before the tenth (10th) day of each succeeding month, file with the Statistical Bureau on forms to be provided by the Coal Commission, a statement verified by affidavit, setting forth the following information for the preceding calendar month:

- (a) Number of tons of each size crushed or pulverized.
- (b) Number of tons of each size resulting from crushing or pulverizing.

#### Section XII—Miscellaneous

##### General

1. The minimum prices established by the Commission shall not apply to coal sold and shipped outside the domestic market as defined in the Act and in these Marketing Rules and Regulations.

2. Maximum prices established by the Commission shall not apply to coal sold and shipped outside the continental United States.

3. No coal shall be sold or delivered or offered for sale at a price below the minimum or above the maximum therefor established by the Commission, and the sale or delivery or offer for sale of coal at a price below such minimum or above such maximum shall constitute a violation of the Code: Provided, that

the provisions of this paragraph shall not apply to a lawful and bona fide written contract entered into prior to June 16, 1933, which has been filed with the Coal Commission.

4. If, in converting a net or gross ton price, freight rate or freight rate differential, the calculation extends to more than 3 decimals, and the 4th decimal is .0005 or more, it shall be added as .001, and if under .0005 it shall be eliminated.

5. All coal shall be sold and invoiced on a price per ton basis, and all coal must be sold and invoiced under the size, price classification and other designation therefor in the price schedule published by the Coal Commission.

6. Failure to file information required by these Marketing Rules and Regulations or the filing of false information, wilfully made, will subject the party failing to file the information required, or the party so filing, to the penalties of the Act and other penalties imposed by law.

##### Advertising

1. No deduction or allowance from invoice prices shall be granted by any code member or his sales agent to any purchaser for advertising.

2. Code members (or their agents or representatives) either individually or collectively, with or without financial participation by retailers of coal, may conduct advertising campaigns seeking to increase the use of coal. The amount of expenditures incurred by a code member, his agent or representative for advertising shall be subject to review by the Coal Commission as to the good faith of the transaction.

##### Screening for Buyer's Account

1. The screening of mine run or re-screening of other grades of coal, sold and billed as such, for the buyer's account for the purpose of keeping the resultant products separate in the shipment thereof is prohibited.

##### Coal Confiscated or Lost in Transit

1. All coal confiscated or lost in transit shall be invoiced to the carrier at not less than the minimum price established for such coal for shipment to the destination and use to which the coal was sold or the established price for sale to the carrier at the place of confiscation or loss, whichever may be the higher.

##### Revision of Marketing Rules and Regulations

1. These Marketing Rules and Regulations are subject to revision and amendment by further order of the Coal Commission.

##### Penalties

##### Section 5 (b) of Bituminous Coal Act:

The membership of any such coal producer in such code and his right to an exemption from the taxes imposed by section 3 (b) of this Act, may be revoked by the Commission upon written complaint by any code member or district board, or any State or political subdivision of a State, or the consumers' counsel, after a hearing,

with thirty days' written notice to the member, upon proof that such member has willfully violated any provision of the code or any regulation made thereunder; and in such a hearing any code member or district board, or any State or political subdivision of a State, or the consumers' counsel, or any consumer or employee, and the Commissioner of Internal Revenue, shall be entitled to present evidence and be heard: *Provided*, That the Commission, in its discretion, may in such case make an order directing the code member to cease and desist from violations of the Code and regulations made thereunder and upon failure of the code member to comply with such order the Commission may apply to a circuit court of appeals to enforce such order in accordance with the provisions of subsection (c) of section 6 or may reopen the case upon ten days' notice to the code member affected and proceed in the hearing thereof as above provided.

##### Section 5 (c) of Bituminous Coal Act:

Any producer whose membership in the code and whose right to an exemption from the tax imposed by Section 3 (b) of this Act shall have been revoked and canceled may apply to the Commission and shall have the right to have his membership in the code restored upon payment by him to the United States of double the amount of the tax provided in section 3 (b) upon the sales price at the mine, or the market value at the mine if disposed of otherwise than by sale at the mine, or if sold otherwise than through an arms' length transaction, of the coal sold or disposed of by the code member in violation of the code or regulations thereunder (but in no case shall such sales price or market value be taken to be less than the minimum price established by the Commission for such coal and in effect at the time of such sale or other disposal), as found by the Commission under subsection (b) hereof. The Commission shall thereupon certify to the Commissioner of Internal Revenue and to the collector of internal revenue for the internal revenue collection district in which the producer resides the amount of the required payment as found under clause (5) of subsection (b), and upon payment of such amount to the Commissioner or the collector such officer shall notify the Commission thereof.

##### Section 10 (c) of Bituminous Coal Act:

If any producer required by this Act or the code or regulation made thereunder to file a report shall fail to do so within the time fixed for filing the same, and such failure shall continue for fifteen days after notice of such default, the producer shall forfeit to the United States the sum of \$50 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States, brought in the district where the producer has his principal office or in any district in which he shall do business. It shall be the duty of the various district attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of forfeiture.

Section 35 of the Criminal Code as amended by the Act of June 18, 1934, c. 587, 48 Stat. 996 (U. S. C., Title 18, sec. 80):

Whoever shall make or cause to be made or present or cause to be presented, for payment or approval, to or by any person or officer in the civil, military, or naval service of the United States, or any department thereof, or any corporation in which the United States of America is a stockholder, any claim upon or against the Government of the United States, or any department or officer thereof, or any corporation in which the United States of America is a stockholder, knowing such claim to be false, fictitious or fraudulent; or whoever shall know-



ingly and willfully falsify or conceal or cover up by any trick, scheme, or device a material fact, or make or cause to be made any false or fraudulent statements or representations, or make or use or cause to be made or used any false bill, receipt, voucher, roll, account, claim, certificate, affidavit, or deposition, knowing the same to contain any fraudulent or fictitious statement or entry, in any matter within the jurisdiction of any department or agency of the United States or of any corporation in which the United States of America is a stockholder shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

Section 37 of the Criminal Code (U. S. C. 88):

If two or more persons conspire either to commit any offense against the United States, or to defraud the United States in any manner or for any purpose, and one or more of such parties do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be fined not more than \$10,000, or imprisoned not more than two years, or both. (R. S. Sec. 5440; May 17, 1879, c. 8, 21 Stat. 4; Mar. 4, 1909, c. 321, Sec. 37, 35 Stat. 1086)

#### MINIMUM PRICE AREA No. 5—DISTRICT No. 15

##### PROPOSED MINIMUM PRICES

In compliance with Order No. 249 of the Commission, the District Board for District No. 15 proposed minimum prices for transportation facilities at the mines for kinds, qualities, and sizes of coal produced by Code Members in said District. It also proposed classifications and price variations as to mines within said District, consuming market areas, and values as to uses as said Board deemed proper and within the authority conferred by the Act. A schedule of same was submitted together with the data upon which said prices were computed which data included the factors considered in determining the price relationship between the various kinds, qualities, and sizes of coal produced by Code Members within said District.

At a hearing before this Commission held in Chicago, Illinois, on November 22, 1938, the District Board presented its case in justification of its said proposed minimum price and classification schedule. Two witnesses testified in support of said schedule, identifying and introducing into the record five exhibits, being numbered 705, 706, and 706-A to 708, inclusive. The testimony of these witnesses appears in Transcript Volume No. 11, dated Chicago, Illinois, November 22, 1938, pages 5552 to 5624, both inclusive, under General Docket No. 15.

##### First Witness—W. E. Blucher

Mr. W. E. Blucher, Kansas City, Missouri, was sworn and testified in substance concerning his experience and qualifications. He has been Manager of the Kansas City Wholesale Coal Credit Bureau since 1920, Secretary Kansas City Coal Service Institute since 1928, Secretary Southwest Coal Bureau since 1929, Secretary-Treasurer Bituminous Coal Producers Board District No. 15 since its organization in June, 1937; he has been connected with the coal industry for ap-

proximately 22 years, during all that time having worked for coal companies collectively and never having been employed by any individual coal company; his first connection with the coal industry was in 1916 when he was employed by the Southwest Coal Bureau, a statistical and wholesale credit organization; he worked with the United States Fuel Administration as Manager of its statistical office in Zone 17 during the World War; he is generally familiar with marketing of coals produced in District 15. He identified and introduced into evidence a document marked for identification as Exhibit No. 705 and entitled "Schedule of Minimum Prices Proposed Pursuant to National Bituminous Coal Commission's Order No. 249" and stated that it represented the proposal of District Board 15 of minimum prices for the kinds, qualities, and sizes of coal produced in said District.

The schedule was prepared in the office and under the instructions of the District Board; two meetings were held by the Board at their offices on August 30 and September 13, 1938. Upon receiving Order No. 249 of the Commission, the Chairman of the Board called a meeting, including its Advisory Committee, for the purpose of having said committee make recommendations to the District Board. It instructed such committee to give consideration immediately to any and all orders of the National Bituminous Coal Commission and to be prepared to make recommendations to the District Board on all matters affecting coal produced in the District. The Advisory Committee was appointed by the Chairman of such Board, he having been authorized for that purpose on August 17, 1937. The appointment of the committee was approved by the Board on September 7, 1937. The Advisory Committee is composed of four members of the District Board supplemented by eleven sales executives and sales managers of coal companies operating within the District. They have had long years of experience in the actual marketing of coal produced within the District and have knowledge of the value of the various coals, one to the other. All are Code Members who represent organizations selling more than 50 per cent of all coal produced within the District. The witness testified that he is ex officio Secretary of such committee and that the committee, anticipating Order No. 249 of the Commission, had given considerable thought at various times to the proposal of minimum prices, and that actual work on its recommendations to the Board concerning such minimum price schedule closely followed August 20, 1938, the date on which Order No. 249 of the Commission was issued.

On August 30, 1938, the Advisory Committee reported its actions and recommendations to the District Board through formal report, together with a draft of the proposed minimum price schedules. The minutes and all other information and data in the possession of the Advisory Committee used in the

preparation of such recommendations were made available to the Board. With the information and data, in addition to the knowledge of the individual members of the committee of the marketing conditions within the District, the committee had available and submitted to the Board, (a) the analyses of various coals, (b) the price relationships existing in approved N. R. A. schedules, (c) relationships proposed under the Bituminous Coal Conservation Act of 1935, (d) the prices and relationships proposed under the Bituminous Coal Act of 1937 approved by the National Bituminous Coal Commission under date of December 16, 1937, and effective on January 3, 1938, and (e) the records of the consideration given to applications and petitions for changes.

In explaining the nature of these particular data, the witness identified and introduced into evidence as Exhibit No. 706, a document containing all of the analyses submitted to the District Board by Code Members within District 15, used by the Advisory Committee in making its recommendations, and also as a part of the underlying data submitted to the District Board. Exhibit No. 706-A, a document entitled "Basis for Classification of Mines in District No. 15," which document contains the average analyses.

##### Action of the District Board in Compliance With Statute and Commission Order No. 249

In compliance with the statute and Order No. 249 of the Commission, the Board gave consideration to the underlying data hereinbefore mentioned and to the proposed minimum price schedule. It ordered one revision thereof to be made immediately in relation to the 1½ x 0 screenings in Production Group No. 2. Upon such revision it approved such minimum price schedule and ordered, in accordance with Rule III of Commission's Order No. 249, a copy thereof to be mailed to all Code Members within the District, together with a letter of transmittal advising such Code Members of their right to protest.

After the submission to the various Code Members within the District of the initial price schedule as approved by the District Board, a total of 58 protests were received; three protests were received from Production Group No. 1; six from Group No. 2; eighteen from Group No. 3; fourteen from Groups Nos. 4 and 5; one from Group No. 6; and sixteen from Oklahoma Groups Nos. 7, 10, 11, and 12.

##### Hearings on Protests

The District Board arranged, in accordance with Rule IV of Order No. 249, for hearings to be conducted by the Advisory Committee on such protests and authorized the Secretary to keep stenographic records of the hearings. Dates for hearings were set, protestants notified, hearings were held, and recommendations in connection therewith were



made by the Advisory Committee to the District Board. In its meeting on September 13, 1938, in further compliance with Rule IV, the District Board granted some of the protests and denied others. The initial proposed schedule was corrected to accord with the relief granted.

After consideration of the protests and such revision and amendments necessitated thereby, the District Board ordered the preparation of the proposed minimum price schedule to be put in form to meet Order No. 249 of the Commission. In compliance with Rules VI and VII one-hundred copies were ordered to be filed with this Commission; five copies were ordered to be filed with each of the other District Boards, and, in accordance with Rule V a copy of such proposed minimum price schedule as changed and corrected was mailed to all Code Members within the District, together with a letter of transmittal.

#### *Proposed Schedule of Minimum Prices*

The proposed minimum price and classification schedule, as submitted at the hearing of District Board No. 15 and identified as Exhibit 705, consists of twenty pages including an index; price instructions; size groupings; definition of producing groups; definition of consuming market areas; alphabetical list of Code Members showing price classification by sizes for various uses; and prices for shipment into market areas 1 to 20, inclusive, except as noted in price instructions.

Item No. 7 on page 4 of the schedule provides for an additional charge of not less than ten cents per ton when coal is subjected to any chemical, oil or waxing process. This additional charge is based upon the experience within this District which demonstrates that coals so treated to alloy dust have a value enhanced by at least ten cents per ton over the coals not so treated.

Item No. 8 on page 4 of the above mentioned minimum price schedule refers to the f. o. b. mine price on "shelly" off-grade coal. Testimony at the hearing developed that a large portion of the tonnage in District 15 is produced from strip mines. The part of this coal which lies near the outcrop is frequently of inferior quality and is known locally as "shelly" coal. A maximum discount of fifteen cents per ton on Sizes Nos. 1 to 7 of this type of coal is provided for the reason that past market history has demonstrated that coal of this nature is generally sold at approximately that amount below the current prices of coal for similar coals of standard quality.

The purpose of providing an increase of fifteen cents per ton in Item 9 on the above mentioned page to the prices on Sizes Nos. 1 to 10 inclusive, when such coals are washed, was in order to reflect the fact that the washing of such sizes enhanced their value by the amount of the differential.

It appears from page 5 thereof that the coals in this District have been grouped into twenty-one separate size groupings generally consisting in the following order of (1) Fancy Lump, (2) Lump, (3) Furnace or Egg, (4) Egg-Nut, (5) Fancy Nut, (6) Standard Nut, (7) No. 2 Nut, (8) Chestnut, (9) Mine Run, (10) Nut Run, (11) Special Stoker, (12) Raw Prepared Screenings, (13) Washed Screenings, (14) Screenings, (15) Raw Dust, (16) Special Purpose coal produced in Production Group No. 12; this special purpose coal is defined as "Crushed Mine Run—Bulk", (17) Special Purpose coal produced in Production Group No. 12; this Special Purpose coal is defined as "Crushed Mine Run—Sacked", (18) Special Purpose coal produced in Production Group No. 12; this Special Purpose coal is defined as "Lump over 2½ inches", (19) Railroad Locomotive Fuel, (20) Railroad Locomotive Special Stoker, and (21) Railroad Locomotive Screenings.

The size of each of the above twenty-one classifications is set forth on this page. It further appears from this exhibit that District 15 has been divided into thirteen Production Groups and on page 6 such Production Groups are defined by the political boundaries within which they are located, the counties and states being specifically named.

Pages 7, 8, and 9 indicate that there are twenty-nine consuming market areas. These areas are defined specifically at the above pages of the exhibit.

Pages 10 to 24, both inclusive, set forth the name of the Code Member, the name of the mine, production group, the seam or kind of coal mined by such Code Member, and the price, classification and size group numbers. It appears from this part of the schedule, among other things, that there are 616 Code Members operating mines within the thirteen production groups; that size groups 1 to 14, both inclusive, are designated as coals dedicated to "Domestic and Commercial Use"; size groups 12 to 15 are coals for "Industrial Use"; groups 16 to 18 are coals for "Special Purpose Use"; and size groups 19 to 21 are coals used for "Railroad Locomotive Fuel."

Page twenty-five of this exhibit indicates the price in cents per net ton of 2000 pounds and the size group numbers of the "Domestic-Commercial and Industrial," "Special Purpose," and "Railroad Locomotive" coals. There is a wide range of prices: Size groups 1, 2, and 3 each carry forty-seven separate price classifications. Letter designations indicating the price for each separate classification start with A, run through the entire alphabet, and continue with the double alphabet down to and including UU, each letter of the alphabet indicating a five cent differential in price. This gives a price range of from \$7.17 per ton for coal classified as "Special Purpose," No. 17 Mine Run Crushed—Sacked, to thirty cents per ton for "Commercial Industrial" coal, No. 14 Raw Screenings.

#### *Factors Considered in Determining Price Relationships*

In compliance with Order No. 249 of the Commission, the District Board directed its Secretary to assemble all data upon which the proposed minimum prices were computed. Such Secretary kept a record of all matters presented to the Board in its proceedings and compiled a document identified and introduced into evidence as Exhibit No. 708, entitled "Statement of the Data Including, but Without Limitation, the Factors Considered in Determining the Price Relationships as Proposed to the National Bituminous Coal Commission in Response to Order No. 249." This document contains a statement of the information which the District Board had before it in proposing its minimum price schedule, together with such other factual data as had been compiled for the use of the Board by the Advisory Committee, including (1) a description of District No. 15 defining the producing groups therein, (2) a statement of average analyses, (3) a key reflecting the relationships between the standard coals in the various producing groups, and (4) the steps taken by the District Board in proposing the minimum prices.

Attached to this Exhibit is a map designating the various coal producing fields in the District; the names and experience of the members of the Advisory Committee; the average analytical and physical description of the coals produced within each production group; a designation of the base groups; a key reflecting the relationships between the standard coals in the various producing groups within the Districts, in cents per ton; a statement as to the relationships between raw and washed coal; a realization table; and the names and addresses of the members of the District Board.

#### *Second Witness—E. M. Douthat*

Mr. E. M. Douthat of Kansas City, Missouri, was sworn and testified in substance concerning his experience and qualifications as follows: that for approximately twenty-five years, he has been engaged in the sale and production of coal in the southwestern states, and in Illinois and Kentucky for a lesser period of time; that at present he is Vice President of the Sinclair Coal Company, a selling agency of Kansas City; Vice President of the Huntville-Sinclair Mining Company, a Code Member in producing group No. 3 of District 15; President of the Thebold Coal Company, a Code Member in producing group No. 2; Vice President of the Delta Coal Mining Company, a Code Member in District 10; and Vice President of the Sentry Coal Mining Company, a Code Member in District No. 9. He has had approximately twenty-five years experience in the marketing of coal and has been Vice-Chairman of District Board No. 15 since its organization. His testimony developed the following facts.



**Production Groups Within District 15**

Bituminous coal is produced by Code Members in District 15, with the exception as noted within the Texas producing group. Production is carried on in the northern tier of counties in the State of Missouri, ranging down through the State of Missouri in a southwesterly direction into southern Kansas, and on down through east and central Oklahoma to a short distance north of the Texas line. It extends north and south for a distance of approximately 500 miles.

The District Board has grouped the coals in this District according to geographical areas because for many years it has been generally accepted by all producers within such District that all coals produced within certain geographical areas are generally comparable in character and interchangeable for the general uses to which they are put. During N. R. A., attempts were made to more definitely define these various geographical areas. As a result of this effort and further studies made pursuant to the Bituminous Coal Acts of 1935 and 1937, the producing groups as proposed by the District Board were created. The coals within each producing group are directly competitive with each other and there are quality differentials existing between such groups as indicated by the chemical and physical characteristics and their generally recognized use values.

**Producing Group No. 1**

The major portion of the coal produced in this group is by surface or strip method. Quite a volume, however, is produced by shaft or underground methods. The mine equipment ranges from the most modern to the most primitive. Preparation is generally by shaker screens, although some smaller mines are equipped only with stationary screens. The coal averages approximately 12,500 B. t. u.'s as received. In appearance, it ranges from a dull black to a dark gray. It is a coking and caking coal, with excessive pyrites, disintegrates considerably in shipping and handling, will not store satisfactorily, and discolors in storage due to calcite partings.

The performance of this coal is usually more satisfactory where uniform high furnace temperatures are required.

Coal mined by this group is transported both by rail and truck, quite a number of the smaller mines being exclusively truck mines with no rail facilities.

This coal meets with competition from oil and gas in practically every market it reaches and is also in competition with water power produced by the Bagnell Dam in southern Missouri and other small power dams scattered throughout the Ozark region.

It is principally used for railroad and industrial purposes, although a portion of the production is sold for domestic use.

All of the coals produced in this group are of such structure and character that they are generally interchangeable for all uses for which there is a market.

**Producing Group No. 2**

The major portion of the production in this group is also by surface or strip method, although there are a number of small shaft and slope mines with a smaller production volume. The equipment in this group also ranges from the most modern to the most primitive.

Preparation is generally by shaker screens, the smaller mines using stationary screens.

This coal averages about 11,300 B. t. u.'s, as received. In appearance, it ranges from a dull black to a dark gray. It is a slightly coking coal although freer burning than the coals from group No. 1. It disintegrates in shipping and handling, will not store satisfactorily and discolors due to calcite partings. This coal is transported both by rail and truck, a great number of the mines, however, having no rail facilities. It is in competition with oil and gas in practically every market it reaches; also with water power as in the case of group 1 coals. Its use, structure, and interchangeability are also comparable to group 1 coals.

**Producing Group No. 3**

Coals in this group are produced by surface and strip method as well as through shaft and slope mines. Preparation equipment ranges from modern to primitive. Screening is generally done by shaker screen, the smaller mines using stationary screens.

The coal averages approximately 11,400 B. t. u.'s, as received, is similar in general characteristics to the coals in Production Group No. 2, although somewhat less caking and is generally interchangeable in common markets with such coals. Transportation is both by rail and truck, trucks however transporting a substantial volume. It is in competition with oil and gas in the majority of its markets and generally it is used for railroad and industrial purposes, a portion of the tonnage being sold for domestic use.

All the coals produced within this group are generally interchangeable for all uses for which there is a market.

**Producing Group No. 4**

Coals produced in this group are entirely by shaft or slope methods. Mining is carried on both by pick and under-cutting machines. The seam is very thin and produces block coal with very little slack; as the coal is usually loaded by hand in the mine the only slack loaded is that small amount resulting from degradation caused by handling.

The coal averages approximately 11,700 B. t. u.'s, as received; in appearance, it ranges from a dull black to a dark gray. It is a flashy free burning coal, disintegrates rapidly in shipping and handling, does not store satisfactorily, has numerous calcite partings

which, when wet or exposed to the air, cause disintegration.

The coal is transported both by rail and truck, the major portion by truck as many mines in this group have no rail facilities.

There is competition in all markets with gas and fuel oil.

The production is used principally for domestic purposes, although a substantial portion is used for railroad and small industrial demand. These coals are generally interchangeable with each other for all uses.

**Producing Group No. 5**

This coal is produced entirely by shaft or slope method and mining is carried on both by pick and under-cutting machines.

It averages approximately 11,300 B. t. u.'s, as received, and is very similar to coal produced in Producing Group No. 4. It is generally interchangeable in the markets; however, there is not so much degradation in shipping and handling as in the coal from Producing Group No. 4.

The majority of the tonnage is transported by trucks, many of the mines having no rail facilities.

There is competition with oil and gas in practically all of its markets and it is used principally for domestic and railroad purposes.

All coals in this group are similar in structure and character and are generally interchangeable with each other for all uses.

**Producing Group No. 6**

Surface or strip and shaft and slope mining methods are used in the production of coal in this area. Underground mining is largely by pick although there are very few under-cutting machines.

The coal produced is much the same type as in Producing Groups 4 and 5. It averages approximately 10,500 B. t. u.'s, as received.

It disintegrates rapidly in handling due to numerous calcite partings. Transportation is almost entirely by truck, only approximately one per cent being transported by rail.

This coal is in competition with oil and gas in all its markets and is used principally for domestic purposes, only a very small amount being used for steam purposes in small plants in nearby towns.

**Producing Group No. 7**

Coal mining in this area is carried on by shaft and slope methods, both pick and under-cutting machines being used. Preparation is by shaker and stationary screen. Some coal is hand-picked in the mines. It averages approximately 13,700 B. t. u.'s, as received. Coal is known as the McAlester seam coal and is the highest grade produced in this District for domestic and industrial purposes. In appearance, it is dense black, has small calcite partings not sufficient to cause excessive degradation. It is a



slightly coking coal, is low in sulfur and ash, high in heat value, hard, and will store for a long period of time.

Transportation is by rail and truck. The coal is sold in competition with oil and gas and used principally for domestic purposes, a small portion being disposed of for railroad and industrial use. All coals in this group are generally interchangeable.

#### Producing Group No. 8

The coal in this area is produced by shaft and slope methods both by pick and under-cutting machines. Its preparation is usually by shaker and stationary screens, although there is some hand picking.

This coal produces approximately 13,800 B. t. u.'s, as received, and is higher in volatile matter as compared with coals in Group No. 7. It does not stand up well in handling and storing and tends to disintegrate in storage due to numerous calcite partings.

It is transported by rail and truck, is sold in competition with gas and oil, and is used principally for domestic purposes, only a small portion being disposed of for railroad and industrial use.

These coals are generally interchangeable with each other.

#### Producing Group No. 9

The mining in this area is by shaft and slope method, both pick and under-cutting machines being used. Preparation is by stationary and shaker machines with some hand picking in the mine. This coal is similar in quality and appearance to that mined in Production Group No. 8 and has been classified accordingly.

Transportation is entirely by truck. The coal is sold in competition with oil and gas, it being used almost entirely for domestic purposes, although some is disposed of for steam and industrial use.

The coals in this group are generally interchangeable with each other.

#### Producing Group No. 10

This coal is also mined through shaft and slope operations both by pick and under-cutting machines. Preparation is by shaker and stationary screens, some of the smaller mines using hand picking methods.

The coal is non-coking, free burning, and averages approximately 15,600 B. t. u.'s, as received. Its appearance is black and glossy, and it disintegrates rapidly in handling and storage.

Transportation is both by rail and truck and the coal is sold in competition with gas and oil; it is used principally for domestic, railroad, and industrial purposes.

The coals mined in this production group are generally interchangeable with each other.

#### Producing Group No. 11

Surface or strip mining and shaft and slope mining are the methods commonly used in producing coal in this particular

group. The underground mining is carried on both by pick and under-cutting machines. Preparation is by shaker and stationary machines, although some of the smaller mines employ only hand picking methods.

This is a slightly coking coal and averages approximately 13,000 B. t. u.'s, as received. It is black and glossy in appearance; however, it is friable and disintegrates rapidly in handling and storage. Transportation is by rail and truck and this coal meets competition with oil and gas. It is used for railroad, industrial, and domestic purposes. These coals are generally interchangeable with each other.

#### Producing Group No. 12

Shaft and slope methods of mining are employed in this area. The coal is of a low volatile rank, very soft in structure, but of high chemical purity. It contains approximately 14,300 B. t. u.'s, as received. It is used principally for black-smithing purposes and generally is not regarded as competitive with any other coal produced in District 15.

Transportation is by rail and truck, and the coals are of such structure and character that they are generally interchangeable with each other.

#### Producing Group No. 13

There is only one shipping mine in this group, with the exception of the State-owned mine at the Kansas penitentiary, which is located at Leavenworth, Kansas. This mine has recently gone into receivership and its status was unknown at the time of the hearing.

Some very small local mines operate at times in this area. There is no average analysis available for their coals; however, such coal is regarded by the District Board as being of a value comparable to the coal produced in Groups 4 and 5 and has been so classified by the Board.

#### Producing Groups in Texas

Most of the coal produced in Texas is lignite and accordingly not subject to the Bituminous Coal Act. However, there are five Code Members in this area apparently producing a bituminous coal. The District Board was unable to obtain sufficient data on these members to properly classify their coals as they do not enter into any known competition with other mines in District 15 and they are all small truck mines with an aggregate annual production of less than 3,000 tons. When additional data and information are obtained by the District Board, it reports that it will take such steps as may be necessary to propose minimum prices and classifications on these coals to the Commission.

#### Instructions to Advisory Committee Relative to Proposal of Minimum Prices

The Advisory Committee had standing instructions from the District Board to meet and formulate recommendations to such Board in respect of any and all matters required by any Order of the Commission. Upon receipt of Order No.

249 of the Commission, such Committee was called into session and proceeded to prepare its recommendations to the District Board as to the proposed minimum price and classification schedule.

In this connection, the Committee first divided the District into the above mentioned 13 geographically defined production groups so arranged, to include as nearly as possible in each group, all mines from which coal of similar quality, structure and performance characteristics was produced.

Size groups were then established to facilitate the pricings of all sizes of coal which, information available to the Committee indicated, were needed and desirable to meet the requirements of Code Members and their customers.

Differentials to reflect the relative market values of the standard coals produced in each production group that were sold in competition with the standard coals produced in every other production group were then established by the Committee and each size of coal loaded by each Code Member was classified to express the proper valuation thereof in its relation to the standard coals of the same size within the same production group.

Recommendations by the Advisory Committee were made to the District Board for each kind, quality, and size of coal produced by Code Members in District No. 15, together with the price thereof expressed in cents per ton of 2000 pounds f. o. b. the mines. These recommendations were believed by the Advisory Committee to reflect the relative market values thereof at a level that would yield a return for the District equal as nearly as may be to the weighted average of the total cost per net ton of the tonnage of Minimum Price Area No. 5, as determined by the Commission.

#### Factors Considered in Determining Value Differentials

Coals produced within each producing group, with the possible exception of Group No. 13, vary from each other in value, and in arriving at the price differentials the value of standard coals in each production group was determined in relation to their value to the standard coals of each of the other producing groups. The price differential between coals of substandard quality in each group was related or compared to the standard coals in each group in order to reflect the difference in value.

In arriving at the proposed relationships, the District Board assumed that all coals from all production groups moved to all markets on identical transportation charges per ton.

Consideration was given also to the factors of chemical analysis, appearance, physical characteristics, characteristics of performance, market history, values as to uses, and consumer acceptance.

#### Method of Determining Size Groupings

In its proposed classification and minimum price schedule, the District Board designated 21 different size groupings.



A thorough survey of the available distribution reports of Code Members disclosed that 21 separate size groupings would be required to be proposed for the reason that this number of different sizes was actually loaded within this District. Size Groups 1 to 15, inclusive, embrace all sizes of coal actually loaded for Domestic, Commercial, and Industrial use, or in other words, for all purposes other than special uses, whereas Size Groups Nos. 16 to 21, inclusive, include Special Purpose use and Railroad Locomotive fuel. All sizes within any one size group have equal market value.

#### Determination of Price Differentials

In determining the price differentials, the District Board selected the coals produced by Production Group No. 1 as the base coals for the reason that such group is located near the center of District 15 and the coals which it produces compete with practically every other producing group. The experience of this producing District discloses that the coals coming within Size Groups Nos. 1, 2, and 3 are of equal market value and accordingly the District Board so priced them. The difference in market value between the several size groups proposed by the District Board was ascertained from experience and the Board proposed prices therefor at a level which would return the weighted average cost, as nearly as may be, of the minimum price area and which would reflect, as nearly as possible, the relative market values of the various sizes.

#### Realization

The District Board caused the proposed price schedule to be tested for realization and a document entitled "Realization Based on 1937 Tonnage and Calculated at Proposed Prices" was identified and introduced into evidence as Exhibit 707.

Consideration of this Exhibit shows that it contains 6 tables. Table 1 is the "Recapitulation of Realization for Rail and Truck Shipments" based on 1937 tonnage. Table 2 is the "Realization of Rail and Truck Shipments" based on 1937 tonnage. Table 3 is the "Recapitulation of Realization on Rail Shipments" based on 1937 tonnage. Table 4 is the "Realization on Rail Shipments" based on 1937 tonnage. Table 5 is the "Recapitulation of Realization on Truck Sales" based on 1937 tonnage, whereas Table 6 is the "Realization on Truck Sales" on such tonnage.

In 1937 a total of 5,335,989 tons were produced for commercial use; this tonnage calculated at the proposed prices would realize \$10,182,276 or \$1.9082 per ton for this type of coal, whereas 1,916,535 tons of coal were produced for railroad use in 1937, which tonnage calculated at the proposed prices would realize \$4,009,222 or \$2.0919 per ton for this type of coal. It further appears from Table 5 that the total truck sales in 1937 amounted to 912,964 tons, which calculated at the proposed prices as set forth in the proposed minimum price

schedule would realize \$2,017,983.92 or \$2.2104 per ton.

An examination of Table 1, which is in fact a recapitulation of the total realization from all rail and truck shipments based on 1937 tonnage, calculated at the prices as proposed in Exhibit 705, indicates that such total realization for all coal of the various kinds, qualities, and sizes as listed in the schedule is \$1,9568, there having been produced 7,252,524 tons of coal by this District in 1937, which tonnage calculated at the prices proposed in the schedule would realize \$14,191,498 or \$1.9568 per ton as above stated.

#### Correction of Error in Realization and Proposed Minimum Price Schedule

In the process of arriving at minimum prices, f. o. b. transportation facilities at the mine, the District Board ascertained the relative value of the coals in the market, and proceeded to relate that value to an f. o. b. mine price, but in the conversion of prices and differentials for the coal in size groups 1, 2, 3, and 4 in all producing groups to an f. o. b. mine price, the District Board made an error in failing to eliminate the effect of transportation charges upon such prices, with the result that the prices for size groups 1, 2, 3, and 4 in all producing groups, as proposed in the schedule submitted by District Board 15, are forty cents per ton lower than they should be to conform to the requirements of Section 4 II (a) of the Act. The schedule submitted by District Board 15 should, therefore, be modified by increasing the prices for size groups numbers 1, 2, 3, and 4 in all producing groups forty cents per ton. This increase in the four size groups will in no way affect the relationships as intended to be proposed by the Board for the remaining size groups and qualities. However, such correction, modification, or adjustment will have the effect of increasing the realization now calculated (as above set forth) from \$1.9568 per ton to \$2.0615 per ton, which is within 0.0125 cent per ton of the weighted average cost of production of Minimum Price Area No. 5.

#### Modifications of Proposed Minimum Price and Classification Schedule

Upon consideration of all the evidence, both oral and documentary, introduced at the hearing on the submission by District Board No. 15 of its proposed schedule of minimum prices and classifications and under the authority conferred upon this Commission by the applicable provisions of the Bituminous Coal Act of 1937, the Commission finds that said proposed schedule should be, and the same is hereby, modified in the following respects:

(1) The cover page of said proposed schedule is hereby modified and amended by substituting therefor the cover page as submitted and approved by the Legal Division of this Commission and appearing as a part of said ap-

proved schedule attached hereto as an appendix.

(2) Item No. 3 on page 4 of said schedule is hereby modified by inserting the words "in cents" after the word "are" and by deleting the last three words of the sentence contained in said Item 3 so that same will read as follows: "All prices herein are in cents per net ton of 2000 pounds f. o. b. transportation facilities at the mine."

(3) Item 5 on page 4 of said schedule reading as follows: "The substitution on any order of a grade or size of coal taking a minimum price higher than the grade or size ordered is not authorized or permitted" is modified by the complete deletion thereof for the reason that said item is a marketing rule or regulation and not a price instruction.

(4) The first paragraph at the top of page 5 of said schedule which reads: "All size designations herein are for round hole screens. When other types of screen are used, the round hole equivalent shall control the size" is hereby modified by the complete deletion thereof and the following is hereby inserted in its place and stead: "All size designations herein are for round hole screens. When other types of screens are used, the equivalent as determined by the District Board subject to the approval of the National Bituminous Coal Commission shall govern the size."

(5) The second paragraph on page 5 of said schedule reading "If any size coal is made for which a size is not designated herein, such coal shall be sold at the price applicable to the next larger size" is hereby modified by deleting the last two words, "larger size," and inserting in their place and stead the words "higher priced size group."

(6) The definition for Size Group 21 as same appears on page 5 of said schedule is hereby modified to read as follows: "No. 21—Railroad Locomotive Screenings—2' x 0' Washed and 2' x 1/4' Raw." This modification is made for the reason that it appeared at the hearing that some Code Members within this District have recently been preparing and selling this additional size for railroad locomotive fuel.

(7) All classifications of coal in Size Groups 1 (Fancy Lump), 2 (Lump), 3 (Furnace or Egg), and 4 (Egg-Nut) are hereby modified by increasing each and every price in such four size groups 40 cents per ton in order to correct the error of the District Board in designating the various prices for said classifications. This modification has the effect of changing the realization as originally computed by the District Board from \$1.9568 to \$2.0615, which latter realization is within 0.0125 cent of the weighted average cost of production of Minimum Price Area No. 5 and accordingly is equal as nearly as may be to the weighted average costs of such minimum price area.

All of the above modifications appear in the approved schedule of minimum prices



as modified and attached hereto as an appendix.

### Protests

Three protests were filed by Code Members with the Commission, complaining of the prices and classifications of certain of the coals produced by them as contained in the minimum price and classification schedule proposed and submitted by the District Board. The Middle River Coal Company of Fulton, Missouri, and the Moniteau Coal Company at Higbee, Missouri, were called during the hearing to provide such protestants an opportunity to introduce evidence in support of their various protests, but no one appeared for said protestants or either of them and, accordingly, the subject matter of the protests having been heard before the District Board, such protests are hereby denied and no modification or revision of the proposed minimum price schedule, as submitted by the District Board, is made with reference to the price or classifications of the coals of the above named protestants.

Upon motion of the Legal Division of the Commission, however, the protest of the Middle River Coal Company above mentioned, together with 6 letters and 3 analyses of coal, was identified and introduced into evidence as Exhibit No. 709. The gist of the complaint as contained in this protest is that a differential in price that would be consistent with the difference in analyses of washed or unwashed coals is desired and it is the desire of the protestant to offer for sale, mine run coals running at least 35 percent screenings, it being contended that many steam plants cannot burn coal of as low fuel value as the protestant's raw screenings. As the District Board proposed higher prices on mine run containing 35 percent screenings for steam use than it did on washed screenings, it is further requested that mine run containing 35 percent screenings or more, for steam use, should be allowed a price not higher than that of washed screenings which are not higher in analysis.

In consideration of the fact that this same protest was heard and considered by the District Board, and since no additional evidence has been presented to the Commission in support of said protest, the Commission approves the action of the District Board in denying the same, without prejudice however, to the protestant or other interested parties re-asserting their claim and supporting the same by other and additional evidence.

The Robinson Coal Company, operating a strip mine in Foster, Bates County, Missouri, appeared by R. S. Leavitt, its Vice President in charge of Sales, and was heard by the Commission concerning the subject matter of its protest.

The protest was identified and introduced in evidence as Exhibit No. 710 and requests a 15 cent per ton differential between washed and unwashed coals of Sizes 1 to 10, inclusive, from mines located in Producing Groups Nos. 2 and 3.

The protestant's mine is not equipped with a washer and it contends that the washing process improves and enhances the quality of coals in Groups 2 and 3 to the same extent as in Group 1. The District Board gave consideration to this protest and permitted a 10 cent differential but denied the requested 15 cent differential.

The Commission approves of the action of the District Board in this regard and, accordingly, denies the request of this protestant with regard to the 15 cent differential claimed between Sizes 1 to 10, inclusive, produced in Producing Groups Nos. 2 and 3.

This protest further requests the establishment of a 35 cent differential between washed and unwashed screenings for industrial purposes from Groups Nos. 1, 2, and 3. The District Board established a differential of 25 cents and 20 cents, respectively. The protestant claims that due to the large quantity of impurities contained in its raw screenings, it has been found impossible to compete with raw or washed screenings from Group 1 or washed screenings from Groups Nos. 2 and 3, and that Group No. 1 raw and washed screenings and Groups Nos. 2 and 3 washed screenings represent a much greater comparative value at the proposed prices than raw or unwashed screenings from the protestant's (Robinson) mine in Group No. 2. The protestant further claims that the Robinson mine was forced to suspend operations due to a large accumulation of screenings.

In this connection the Commission finds that the evidence adduced by the protestant is not of such a persuasive nature, when weighed against the considerations, deliberations and opinions of the members of the District Board and its advisory committee, to warrant the Commission in modifying the proposal made by the District Board. The request of the protestant is therefore denied.

### Conclusion

And now upon consideration of all the evidence, both oral and documentary, introduced at the hearing on the submission of the minimum price and classification schedule as proposed by District Board No. 15 at Chicago, Illinois, on November 22, 1938, the Commission hereby finds:

(1) That the District Board for District No. 15 as directed by Order No. 249 of the Commission proposed minimum prices free on board transportation facilities at the mines for kinds, qualities, and sizes of coal produced by Code Members within the District, and classifications of coal and price variations as to mines, consuming market areas, and values as to uses.

(2) That said District Board submitted to the Commission a schedule of such proposed minimum prices and classifications, together with the data upon which the prices contained in said schedule were computed, and upon which the classifications of coal were deter-

mined, including without limitation, the factors considered in determining the price relationship.

(3) That the prices contained in said schedule as modified and revised by the Commission reflect as nearly as possible the relative market value of the various kinds, qualities, and sizes of coal produced by Code Members within the District; are just and equitable as between producers within the District; have due regard to the interests of the consuming public, and do not permit dumping.

(4) That the minimum prices contained in said schedule, as modified and revised by the Commission, for any kind, quality, or size of coal for shipment into any consuming market area, are just and equitable as between producers within the District.

(5) That the minimum prices contained in said schedule, as modified and revised by the Commission, for any kind, quality, or size of coal for shipment into any consuming market area, are proposed in such manner so as to yield a return per net ton for the District equal as nearly as may be to the weighted average of the total cost, per net ton, of the tonnage of Minimum Price Area No. 5; the return or realization, per net ton, for said District 15, under said schedule as modified and revised being \$2.0615, whereas the weighted average of the total cost per net ton of the tonnage of Minimum Price Area No. 5 as determined by the Commission is \$2.049.

(6) That the proposed minimum price and classification schedule submitted to the Commission by District Board No. 15 as modified, amended, corrected, and revised, a copy of which said schedule appears as an appendix attached hereto, is in reasonable compliance and conformity with Order No. 249 of the Commission and with the requirements of Section 4 II (a) of the Bituminous Coal Act of 1937.

The Commission further hereby finds that said schedule as so modified, amended, corrected, and revised, should be, and the same is hereby, approved by the Commission to serve as a basis for coordination, as provided in Section 4 II (b) of said Act.

### APPENDIX FOR DISTRICT NO. 15

#### SCHEDULE OF MINIMUM PRICES AS MODIFIED AND APPROVED TO SERVE AS A BASIS FOR COORDINATION

NOTE.—The prices in this schedule are not the final prices that will be established on coal for shipment into consuming markets of this district. In the ultimate establishment of the effective minimum prices, pursuant to subsection (b) of Part II, Section 4 of the Act, the minimum prices in this schedule are subject to such increase or decrease respectively, as may be necessary to carry out the provisions of subsections (a) and (b) of Part II, Section 4 of the Act.

F. W. McCULLOUGH,  
Secretary.

Issued: December 17, 1938.

#### PRICE INSTRUCTIONS AND EXCEPTIONS

1. The relationships reflected herein are divided into four parts reflecting



the value as to uses, namely, Domestic and Commercial Coal Use, Industrial Coal Use, Special Purpose Coal Use, Railroad Locomotive Fuel Use.

(a) Domestic and Commercial Coal Use applies: First, on all sales in retailing of coal. Second, on all sales of coal to consumers using coal principally for space heating. Third, on all other sales except as provided for in the Industrial Coal Use Part, Special Purpose Coal Use Part, and Railroad Locomotive Fuel Use Part.

(b) Industrial Coal Use applies where sale is made by the producer code member, his authorized agent, or a registered wholesaler or jobber, and where the coal moves direct from the mine of the producer to consumers using fuel principally for: First, the purpose of driving steam engines or turbines. Second, the purpose of manufacturing or processing if fuel is required each day of the year products of the consumer are produced.

(c) Special Purpose Coal Use applies to all coal produced in what is known as the Briartown District in Oklahoma.

(d) Railroad Locomotive Fuel Use applies to all coal sold to railroads for locomotive fuel.

2. The schedule of prices shown herein applies F. O. B. transportation facilities at mines on all coal produced by Code Members in the District shown on the title page hereof.

3. All prices herein are in cents per net ton of 2,000 pounds F. O. B. transportation facilities at the mine.

4. All prices are subject to the Marketing Rules and Regulations issued by the National Bituminous Coal Commission.

5. In the sale of coal to destined points outside the boundary of the United States, prices stipulated herein are for payment in United States funds.

6. When coal is subjected to any chemical, oil or waxing process, an additional charge of not less than 10¢ per net ton shall be made.

7. The F. O. B. mine price on shelly, off-grade coal may be reduced a maximum of 15¢ per ton on Sizes Nos. 1 to 7, inclusive, when due notice is given by a Code Member to the Statistical Bureau of the National Bituminous Coal Commission that he has such coal to dispose of and the coal is inspected and so classified by an authorized representative of the Commission.

8. Prices shown herein for Sizes Nos. 1 to 10, inclusive, from Production Group No. 1 are for unwashed coal. When these sizes are washed, 15¢ shall be added to the prices indicated.

9. On Size No. 17, Special Purpose Coal Produced in Production Group No. 12, the price indicated may be reduced \$1.75 per ton when buyer furnishes the sacks.

#### SIZE GROUPS

Size group No. 1. *Fancy lump*.—Coal passing over a screen with round hole openings larger than 3".

Size group No. 2. *Lump*.—Coal passing over a screen with round hole openings of ½" to 3", inclusive.

Size group No. 3. *Furnace or egg*.—Coal passing through a screen with round hole openings not over 10" and over a screen with round hole openings of not less than 1½".

Size group No. 4. *Egg-nut*.—Coal passing through a screen with round hole openings not over 10" and over a screen with round hole openings not over 1¼".

Size group No. 5. *Fancy nut*.—Coal passing through a screen with round hole openings not over 3" and over a screen with round hole openings not over 2".

Size group No. 6. *Standard nut*.—Coal passing through a screen with round hole openings not over 3" and over a screen with round hole openings not over 1¼".

Size group No. 7. *No. 2 nut*.—Coal passing through a screen with round hole openings not over 2" and over a screen with round hole openings not over 1¼".

Size group No. 8. *Chestnut*.—Coal passing through a screen with round hole openings not over 1¼" and over a screen with round hole openings of not over 1".

Size group No. 9. *Mine run*.—Coal shoveled at the face from which no coal has been removed either at the face, preparation plant, or when loading into transportation facilities, and shall contain not less than 30% screenings that will pass through an 1¼" round hole screen. Run of mine containing less than 30% screenings that will pass through an 1¼" round hole screen shall be classified as Lump coal and sold at not less than the Lump coal price.

Size group No. 10. *Nut run*.—Coal passing through not larger than a 3" round hole screen or its equivalent, from which no coal has been removed, and it shall contain not less than 50% screenings that will pass through an 1¼" round hole screen. Nut Run containing less than 50% screenings that will pass through an 1¼" round hole screen shall be classified as 3" Nut coal and sold at no less than the price applying on Standard Nut.

Size group No. 11. *Special stoker*.—Coal passing through a screen with round hole openings not over 1¼" and over a screen with round hole openings not over ¾".

Size group No. 12. *Raw prepared screenings*.—Coal dry-cleaned passing through a screen with round hole openings not over 1¼" and over a screen with round hole openings not over ¼".

Size group No. 13. *Washed screenings*.—1¼" x 0"—Washed coal passing through a screen with round hole openings not over 1¼" from which no coal has been removed.

Size group No. 14. *Screenings*.—1¼" x 0"—Coal passing through a screen with round hole openings not over 1¼" from which no coal has been removed.

Size group No. 15. *Raw dust*.—¼" x 0"—Coal that has not been washed passing through a screen with round hole openings not over ¼" from which no coal has been removed.

Size group No. 16. *Special purpose coal produced in production group No. 12*.—Crushed Mine Run—Bulk.

Size group No. 17. *Special purpose coal produced in production group No. 12*.—Crushed Mine Run—Sacked.

Size group No. 18. *Special purpose coal produced in production group No. 12*.—Lump over 2½".

Size group No. 19. *Railroad locomotive fuel*.

Size group No. 20. *Railroad locomotive special stoker*.—3" x 0" with ½ of the screenings removed.

Size group No. 21. *Railroad locomotive screenings*.—2" x 0"—Washed and 2" x ¼" Raw.

All size designations herein are for round hole screens. When other types of screens are used the equivalent as determined by the District Board subject to the approval of the National Bituminous Coal Commission shall govern the size.

If any size coal is made for which a size is not designated herein, such coal shall be sold at the price applicable to the next higher priced size group.

#### IDENTIFICATION OF PRODUCING GROUP NUMBERS

Group No. 1. All mines located in Cherokee, Crawford, Bourbon, Neosho, Labette and Wilson Counties, Kansas; and Barton, Jasper, Dade, Cedar, and that portion of Vernon County lying south of an east and west line drawn through the town of Nevada, Missouri.

Group No. 2. All mines located in Linn County, Kansas; and Bates, Henry, St. Clair, Morgan, Pettis and Johnson Counties; and that portion of Vernon County lying north of an east and west line drawn through the town of Nevada in Missouri.

Group No. 3. All mines located in Boone, Callaway, Audrain, Randolph, Macon, Linn, Grundy, Harrison, Adair, Chariton, Schuyler, Putnam, Cole, Howard, Monroe, Warren, and Ralls Counties in Missouri.

Group No. 4. All mines located in Ray, Clay, Caldwell, Daviess, Clinton, and Carroll Counties in Missouri.

Group No. 5. All mines located in Lafayette County, Missouri.

Group No. 6. All mines located in Osage, Franklin, Lyon, and Coffey Counties, Kansas.

Group No. 7. All mines operating on the genuine McAlester seam in Pittsburg and Latimer Counties, Oklahoma.

Group No. 8. All mines operating on the Wilburton-Hartshorne seams in Pittsburg and Latimer Counties, Oklahoma.

Group No. 9. All mines located in Coal County, Oklahoma.

Group No. 10. All mines located in Okmulgee County, Oklahoma.

Group No. 11. All mines located in Tulsa, Wagoner, Rogers, Nowata and Craig Counties, Oklahoma.

Group No. 12. All mines located in Muskogee County, Oklahoma.

Group No. 13. All mines located in Johnson, Leavenworth, and Wyandotte Counties, Kansas.







Alphabetical List of Code Members Showing Price Classification by Sizes for Various Uses Shown—Continued

Price classification and size group numbers																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																													
Code member	Name of mine	Prod. group No.	Seam or kind	Domestic and commercial use																Industrial use	Special purpose use	R. R. Loc. fuel use																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																							
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72. Bristol Ridge Coal Co.	Bristol Ridge	2	Henryetta	QQ	QQ	QQ	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL



Alphabetical List of Code Members Showing Price Classification by Sizes for Various Uses Shown—Continued

Code member		Name of mine	Prod. group No.	Seam or kind	Price classification and size group numbers														Industrial use		Special purpose use	R. R. Loco. fuel use			
					1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
43	Cunningham Coal Co.	No. 1.	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
44	Custom Coal Co.	Custom Coal Co.	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
45	Daniels Coal Co.	Daniels	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
46	Danben Coal Co.	Danben	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
47	Davis, Boyd	Davis	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
48	Davis & Anderson	Davis & Yalch	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
49	Dawley, Roland M. & Yalch, F. J.	Dawley	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
50	DeGaspero Coal Co.	DeGaspero	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
51	Desiderio, John	Desiderio	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
52	Diamond Coal Co., The	Diamond Coal Co.	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
53	Dodder & Farris	Dodder & Farris	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
54	Dittman & Wachter Coal Co.	Dittman & Wachter Coal Co.	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
55	Dockery Coal Co.	Dockery	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
56	Dodd, Russell	Dodd	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
57	Doherty, Wm.	Doherty	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
58	Domestic Coal Co.	Domestic Coal Co.	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
59	Donelson-Ryan Coal Co.	Donelson-Ryan Coal Co.	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
60	Dow Coal Co.	Dow	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
61	Dew-Pioneer Coal Co.	Dew-Pioneer Coal Co.	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
62	Driskell, Claud W.	Driskell	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
63	Drywood Coal Co.	Drywood	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
64	Due Coal Co.	Due	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
65	Dunn, Mode	Dunn	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
66	Duval Coal Co.	Duval	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
67	E & C Coal Co.	E & C	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
68	Eagle-Cherokee Coal Mfg. Co.	Eagle-Cherokee Coal Mfg. Co.	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
69	East End Coal Co.	East End	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
70	Eastbrook Coal Mine	Eastbrook	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
71	East Fork Coal Co.	East Fork	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
72	Eaton Coal Co.	Eaton	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
73	Economy Coal Co.	Economy	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
74	Eckles & Sons	Eckles	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
75	Edgar & Edgar	Edgar	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
76	Edgar, Pearl H.	Edgar	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
77	Ellis Coal Co.	Ellis	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
78	Elliot, G. W.	Elliot	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
79	Elm Branch Coal Co.	Elm Branch	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
80	Elmira Coal Co.	Elmira	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
81	Engleley, Jewell	Engleley	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
82	England Bros.	England	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
83	Enloe, B. W.	Enloe	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
84	Eravi, Joe	Eravi	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
85	Ery, Ed	Ery	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
86	Evans Coal Co.	Evans	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
87	Fallman, Edward	Fallman	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
88	Farmers Coal Mining Co.	Farmers Coal Mining Co.	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
89	Farmers Coal Mining Co.	Farmers Coal Mining Co.	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
90	Fikins, C. O.	Fikins	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
91	Fikins, C. O.	Fikins	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
92	Fikins, C. O.	Fikins	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
93	Fikins, C. O.	Fikins	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
94	Fikins, C. O.	Fikins	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
95	Fikins, C. O.	Fikins	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
96	Fikins, C. O.	Fikins	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
97	Fletcher, Waddell & Reynolds	Fletcher, Waddell & Reynolds	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
98	Floyd, Virgil	Floyd	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
99	Foote Mfg. & Mining Co.	Foote Mfg. & Mining Co.	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
100	Ford, Walter	Ford	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
101	Four Coal Co.	Four Coal Co.	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
102	Four Coal Co.	Four Coal Co.	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
103	Four Coal Co.	Four Coal Co.	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
104	Fox Bros. Coal Co.	Fox Bros. Coal Co.	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
105	Freeman, M. L.	Freeman	1	Cherokee	TT	TT	TT	EE	AA	ZZ	AA	TT	EE	AA	ZZ	AA	TT	TT	TT						
106	Frew Brothers	Frew Brothers	1	</																					



Alphabetical List of Code Members Showing Price Classification by Sizes for Various Uses Shown—Continued

Price classification and size group numbers				Domestic and commercial use																		Special purpose use		R. R. Locomotive fuel use	
Seam or kind				Industrial use																		Special purpose use		R. R. Locomotive fuel use	
Name of mine				Industrial use																		Special purpose use		R. R. Locomotive fuel use	
Code member				Industrial use																		Special purpose use		R. R. Locomotive fuel use	
Name of mine				Industrial use																		Special purpose use		R. R. Locomotive fuel use	
Code member				Industrial use																		Special purpose use		R. R. Locomotive fuel use	
Name of mine				Industrial use																		Special purpose use		R. R. Locomotive fuel use	
Code member				Industrial use																		Special purpose use		R. R. Locomotive fuel use	
Name of mine				Industrial use																		Special purpose use		R. R. Locomotive fuel use	
Code member				Industrial use																		Special purpose use		R. R. Locomotive fuel use	
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Code member				Industrial use																		Special purpose use		R. R. Locomotive fuel use	
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Code member				Industrial use																		Special purpose use		R. R. Locomotive fuel use	
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Code member				Industrial use																		Special purpose use		R. R. Locomotive fuel use	
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Alphabetical List of Code Members Showing Price Classification by Sizes for Various Uses Shown—Continued

Code member	Name of mine	Prod. group No.	Seam or kind	Price classification and size group numbers																				
				Domestic and commercial use														Industrial use		Special purpose use		R. R. Loco. fuel use		
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21				
127. Osage City Coal Co.	No. 30	6	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
128. Osage Coal Co.	Osage	6	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
129. Ottumwa Coal Co.	Ottumwa	6	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
130. Owens & Bradley	Ottumwa	6	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
131. Palmatier, Clayton	Palmatier's	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
132. Parker, Guy F.	No. 2	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
133. Parkins Coal Co.	No. 1	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
134. Patch, John W.	No. 1	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
135. Pearson Coal Co.	Pearson	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
136. Pearson & Son	Pearson	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
137. Pearson & Son	Pearson	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
138. Peck Coal Co., H. S.	Peck	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
139. Peck Coal Co., Frank	Peck	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
140. Peck Coal Co.	Peck	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
141. Penrod, George, Sr.	Penrod	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
142. Penrod, George, Jr.	Penrod	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
143. Perry Coal Co.	Perry	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
144. Phillips & Masco	Phillips	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
145. Phillips Coal Co.	Phillips	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
146. Pickering Coal Co.	Pickering	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
147. Pickering Development Co., Geo.	Pickering	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
148. Pierce Coal Co.	Pierce	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
149. Pierce Coal Co., Clyde	Pierce	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
150. Pioneer Coal Co.	Pioneer	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
151. Piner, Arthur A.	Piner	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
152. Pittsburgh & Midway Coal Ming Co.	Pittsburgh	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
153. Pittsburgh & Midway Coal Ming Co.	Pittsburgh	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
154. Pocahontas Producer Coal Co.	Pocahontas	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
155. Poppley, John	Poppley	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
156. Porter Coal Co.	Porter	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
157. Pottam Ridge Coal Co.	Pottam	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
158. Pottam Mining Co.	Pottam	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
159. Pottam Coal Co., Horner	Pottam	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
160. Ray Coal Co.	Ray	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
161. Ray County Coal Co.	Ray	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
162. Rayville Coal Co.	Rayville	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
163. Red Top Coal Co.	Red Top	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
164. Reeves, R. H.	Reeves	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
165. Rice Coal Co.	Rice	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
166. Richardson, John T. & Bro.	Richardson	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
167. Riedt, Jerry	Riedt	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
168. Riedt, Jerry	Riedt	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
169. Ritchie Coal Co.	Ritchie	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
170. Riverside Coal Co.	Riverside	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
171. Robbins Coal Co.	Robbins	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
172. Roberts & Sons	Roberts	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
173. Robinson, Luke	Robinson	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
174. Robinson Coal Co.	Robinson	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
175. Rock Valley Coal Co.	Rock Valley	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
176. Rogers County Coal Co.	Rogers	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
177. Rogers Bros.	Rogers	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
178. Roletlin, Guy	Roletlin	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
179. Rose Hill Coal Co.	Rose Hill	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
180. Rose & Lockhart	Rose & Lockhart	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
181. Rowland & Sparks	Rowland & Sparks	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
182. Royal-Cherokee Coal Co.	Royal-Cherokee	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
183. Runaway & Hatfield	Runaway & Hatfield	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
184. Ryals, L. O. & Sons	Ryals	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
185. Ryals, L. O. & Sons	Ryals	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
186. Samples Coal Mining Co.	Samples	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
187. Samples Coal Co.	Samples	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
188. Samples Coal Co., J. W.	Samples	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
189. Sartor-Maskey Coal Co.	Sartor-Maskey	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
190. Schaefer, Raymond	Schaefer	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
191. Schaefer, Wm.	Schaefer	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
192. Schaefer, Wm.	Schaefer	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
193. Schaefer, Wm.	Schaefer	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
194. Schaefer, Wm.	Schaefer	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
195. Schaefer, Wm.	Schaefer	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
196. Schaefer, Wm.	Schaefer	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
197. Schaefer, Wm.	Schaefer	11	Osage	LL	LL	LL	GG	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL	LL				
198. Schaefer, Wm.	Schaefer																							



Price classification and size group numbers

[illegible]







## Prices for Shipment Into Market Areas, Nos. 1 to 20, Inclusive, Except as Noted in Price Instructions

Price classification	Prices in cents per net ton of 2,000 pounds and size group numbers																				
	Domestic, commercial and industrial															Special purpose			R. R. locomotive fuel		
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
	Fry, lump	Lump	Fry or egg	Egg nut	Fry, nut	Std. nut	No. 2 nut	Chestnut	Mine run	Nut run	Spec. stoker	Raw P. P. Sags.	Wash. Sags.	Raw Sags.	Raw dust	M. run Cr. bulk	M. run Cr. sacked	Lump over 2 1/2	R. R. Loco. fuel	R. R. Spec. stoker	R. R. 2 x 0 Sags.
A+	465	465	465	440	365	375	235	250	205	210	180	160	160	185	35	525	717	572	265	195	170
A	460	460	460	435	360	370	230	245	200	205	175	155	155	180					260		
B	455	455	455	430	355	365	225	240	195	200	170	150	150	175					255		
C	450	450	450	425	350	360	220	235	190	195	165	145	145	170					250		
D	445	445	445	420	345	355	215	230	185	190	160	140	140	165					245		
E	440	440	440	415	340	350	210	225	180	185	155	135	135	160					240		
F	435	435	435	410	335	345	205	220	175	180	150	130	130	155					235		
G	430	430	430	405	330	340	200	215	170	175	145	125	125	150					230		
H	425	425	425	400	325	335	195	210	165	170	140	120	120	145					225		
I	420	420	420	395	320	330	190	205	160	165	135	115	115	140					220		
J	415	415	415	390	315	325	185	200	155	160	130	110	110	135					215		
K	410	410	410	385	310	320	180	195	150	155	125	105	105	130					210		
L	405	405	405	380	305	315	175	190	145	150	120	100	100	125							
M	400	400	400	375	300	310	170	185	140	145	115	95	95	120							
N	395	395	395	370	295	305	165	180	135	140	110	90	90	115							
P	390	390	390	365	290	300	160	175	130	135	105	85	85	110							
Q	385	385	385	360	285	295	155	170	125	130	100	80	80	105							
R	380	380	380	355	280	290	150	165	120	125	95	75	75	100							
S	375	375	375	350	275	285	145	160	115	120	90	70	70	95							
T	370	370	370	345	270	280	140	155	110	115	85	65	65	90							
U	365	365	365	340	265	275	135	150	105	110	80	60	60	85							
V	360	360	360	335	260	270	130	145	100	105	75	55	55	80							
W	355	355	355	330	255	265	125	140	95	100	70	50	50	75							
X	350	350	350	325	250	260	120	135	90	95	65	45	45	70							
Y	345	345	345	320	245	255	115	130	85	90	60	40	40	65							
Z	340	340	340	315	240	250	110	125	80	85	55	35	35	60							
AA	335	335	335	310	235	245	105	120	75	80	50	30	30	55							
BB	330	330	330	305	230	240	100	115	70	75	45	25	25	50							
CC	325	325	325	300	225	235	95	110	65	70	40	20	20	45							
DD	320	320	320	295	220	230	90	105	60	65	35	15	15	40							
EE	315	315	315	290	215	225	85	100	55	60	30	10	10	35							
FF	310	310	310	285	210	220	80	95	50	55	25	5	5	30							
GG	305	305	305	280	205	215	75	90	45	50	20	0	0	25							
HH	300	300	300	275	200	210	70	85	40	45	15	0	0	20							
II	295	295	295	270	195	205	65	80	35	40	10	0	0	15							
JJ	290	290	290	265	190	200	60	75	30	35	5	0	0	10							
KK	285	285	285	260	185	195	55	70	25	30	0	0	0	5							
LL	280	280	280	255	180		50	65	20	25	0	0	0	0							
MM	275	275	275	250	175		45	60	15	20	0	0	0	0							
NN	270	270	270	245	170		40	55	10	15	0	0	0	0							
OO	265	265	265	240	165		35	50	5	10	0	0	0	0							
PP	260	260	260				30	45	0	5	0	0	0	0							
QQ	255	255	255				25	40	0	0	0	0	0	0							
RR	250	250	250				20	35	0	0	0	0	0	0							
SS	245	245	245				15	30	0	0	0	0	0	0							
TT	240	240	240				10	25	0	0	0	0	0	0							
UU	235	235	235				5	20	0	0	0	0	0	0							

NOTE.—See Price Instructions and Exceptions.

## CONSUMING MARKET AREAS DEFINED

No. 1. *Greater Kansas City*.—In Wyandotte and Johnson Counties, Kansas; Missouri Pacific River Route to a point approximately even with the Western University Annex on the west; thence southwest through Wellborn to Muncie on the Union Pacific and K. C. K. V. & W.; thence east to Turner on the A. T. & S. F.; thence south to Shawnee; thence east to Merriam on the St. L.-S. F.; thence south to Overland Park on the Mo. & Kans. R. R.; thence east to the western boundary of Jackson County, Missouri.

In Jackson County, Missouri: Beginning at Martin City on the Mo. Pac. to the south; thence east to and including Grandview on the K. C. S. and St. L.-S. F.; thence northeast to but not including Lees Summit; thence northeast to and including Blue Springs; thence northeast to and including Buckner; thence north to and including Sibley on the Missouri River.

In Clay County, Missouri: North Kansas City only.

No. 2. *St. Joseph*.—Switching limits of St. Joseph, Missouri.

No. 3. *Omaha*.—Switching limits of Omaha, Nebraska.

No. 3A. *Council Bluffs*.—Switching limits of Council Bluffs, Iowa.

No. 4. *Lincoln*.—Switching limits of Lincoln, Nebraska.

No. 5. *Sioux City, Iowa*.—Switching limits of Sioux City in Iowa.

No. 6. *South Dakota*.—All of the state of South Dakota.

No. 7. *Minnesota*.—All of the state of Minnesota.

No. 8. *Iowa*.—Beginning at a point southeast of Sioux City, excluding Sioux City, running southeast on an airline to a point immediately north of Minden; thence east excluding points on the C. R. I. & P. R. R. to and excluding Atlantic; thence crossing the C. R. I. & P. R. R. east of Atlantic including points thereon, to and including Des Moines; thence crossing the railroad continuing east excluding points on the C. R. I. & P. R. R. to but excluding Grinnell; thence north

excluding points on the Minneapolis & St. Louis R. R. to, but including Marshalltown; thence west excluding Minerva Junction; thence north excluding points on the Minneapolis & St. Louis R. R. to and excluding Eldora; thence northwest excluding points on the C. & N. W. R. R. excluding Iowa Falls, Alden, Dows, and Clarion; thence northeast excluding points on the Chicago, Great Western R. R. to and excluding Mason City; thence north excluding points on the C. R. I. & P. R. R. to the Minnesota-Iowa state line; thence west following the state line to the South Dakota-Iowa-Minnesota state line; thence south following the Iowa-South Dakota state line to the point of beginning, excluding Sioux City.

No. 8A. *Iowa*.—Beginning at a point just northwest from Eldora; thence north excluding points on the Minneapolis and St. Louis R. R. to and excluding Hampton; thence north including points on the C. R. I. & P. R. R. to but excluding Mason City; thence southwest including points on the C. G. W. R. R. to and including Clarion; thence southeast on an airline to the point of beginning, including Clarion, Dows and Alden.

No. 8B. *Iowa*.—Points in eastern Iowa. Beginning at the northeast corner of Iowa on the Mississippi River; thence south down the river, excluding points on the C. M. St. P. & P. R. R. from Clinton to Davenport, both excluded; thence west following the river to a point south of Muscatine; thence west including points on the C. R. I. & P. R. R. to and including Thornburg; thence west on an airline to a point southwest of New Sharon, including New Sharon; thence north including points on the Minneapolis & St. Louis R. R. to but excluding Marshalltown; thence west including Minerva Junction; thence north including points on the Minneapolis & St. Louis R. R. to and including Hampton; thence north excluding points on the C. R. I. & P. R. R. to Mason City but including Mason City; thence north to the Minnesota-Iowa state line, including points on the C. R. I. & P. R. R.; thence east following the Minnesota-Iowa state line to the point of beginning.

No. 8C. *Iowa*.—Beginning at a point just south of Muscatine, Iowa; thence west excluding points on the C. R. I. & P. R. R. to and excluding Thornburg; thence west to a point just south of New Sharon, Iowa; thence south including points on the Minneapolis & St. Louis R. R. to and including Osaloosa; thence southeast excluding points on the C. R. I. & P. R. R. to and excluding Ottumwa; thence east including points on the C. B. & Q. R. R. to and including Burlington, Iowa; thence north up the Mississippi River to the point of beginning.

No. 8D. *Iowa*.—Beginning at a point on the Missouri-Iowa state line due south of Bloomfield, Iowa, running north excluding points on the Wabash to and excluding Ottumwa; thence east excluding points on the C. B. & Q. R. R. to the Mississippi River; thence south down the



River to the Iowa-Illinois-Missouri state line; thence northwest and west on the Missouri-Iowa state line to the point of beginning.

No. 8E. *Iowa*.—Beginning at a point south of Sioux City, Iowa, running on an airline southeast to a point just north of Minden; thence east including points on the C. R. I. & P. R. R. to and including Atlantic; thence crossing the railroad east of Atlantic and excluding points on the C. R. I. & P. R. R. to and excluding Des Moines; thence continuing east including points on the C. R. I. & P. R. R. to a point just west of Grinnell; thence south excluding points on the Minneapolis and St. Louis R. R. to and excluding Oskaloosa; thence southeast including points on the C. R. I. & P. R. R. to and including Ottumwa; thence northwest including points on the C. B. & Q. R. R. to but excluding Frederic; thence west excluding points on the C. B. & Q. R. R. to the Missouri River; thence north up the Missouri River to the starting point of this area, excluding Council Bluffs and Sioux City.

No. 8F. *Iowa*.—Beginning at the Missouri-Iowa state line south of Bloomfield, Iowa; thence north including points on the Wabash R. R. to but excluding Ottumwa; thence northwest excluding points to but including Frederic; thence west including points on the C. B. & Q. R. R. to the Missouri River; thence south following the Missouri River to the Nebraska-Iowa-Missouri state line; thence east on the Iowa-Missouri state line to the point of beginning.

No. 9. *Northwest Missouri*.—The counties of Andrew, Atchison, Buchanan except St. Joseph, Clinton, DeKalb, Gentry, Holt, Nodaway, Platte and Worth in the state of Missouri.

No. 10. *North Missouri*.—Bounded on the north by the Iowa-Missouri state line; bounded on the east by the western boundary line of Market Area No. 11; bounded on the west by the western county lines of Harrison, Daviess, Caldwell and Clay Counties, except North Kansas City; bounded on the south by the Missouri River from North Kansas City to the Western boundary of Saline County, thence south to the southern boundary of Saline County; thence east following the southern boundary of Saline County to the Missouri River; thence the Missouri River to St. Louis and including the towns of Boonville, Jefferson City, Algoa and Algoa Farms, located on the south bank of the Missouri River.

No. 11. *Northeast Missouri*.—Points east of a line beginning at a point west of Keokuk, Iowa, on the south bank of the Des Moines River; thence south including points on the C. B. & Q. R. R., passing just east of Maywood, including Quincy, Ill., continuing south crossing the C. B. & Q. R. R. east of Palmyra; thence south crossing the Wabash R. R. west of Oakwood; thence southwest including points on the St. L. & H. R. R., crossing the Alton R. R. west of Bowling Green; thence southeast crossing the C.

B. & Q. R. R. west of Old Monroe; thence east running between the Wabash and the C. B. & Q. R. R. and continuing to and including St. Louis, Mo.

No. 12. *Central Missouri*.—Bounded on the north by the Missouri River from Sibley, Missouri, east to the western county boundary line of Saline County, thence south to the southern boundary of Saline County; thence east and northeast following the boundary line of Saline County to the Missouri River; thence the Missouri River east to St. Louis, except the towns of Boonville, Jefferson City, Algoa and Algoa Farms on the south bank of the Missouri River; bounded on the west by an imaginary line drawn from but not including Sibley, Missouri, on the Missouri River to but not including Buckner; thence southwest to but not including Blue Springs; thence southwest to but not including Lees Summit; thence southward and east of the line of the Missouri Pacific R. R., Lees Summit to Lamar, and excluding all points on the Missouri Pacific R. R.; thence eastward and north of the main line of the St. Louis-San Francisco R. R. Lamar to Cape Girardeau through Springfield and Willow Springs and excluding all points on the main line of the St. Louis-S. F. R. R.; bounded on the east by the Mississippi River, St. Louis to Cape Girardeau.

No. 13. *South Missouri*.—Towns on and west of the Missouri Pacific R. R., Lees Summit to Lamar, both inclusive; all towns on and south of the main line of the St. L.-S. F. R. R., Lamar to Cape Girardeau, through Springfield and Willow Springs; all towns in Cherokee County, Kansas, and that part of Jackson County, Missouri, not included in Market Areas Nos. 1 and 12.

No. 14. *Central & Western Nebraska*.—Central and western Nebraska excluding Market Area No. 14-B.

No. 14A. *Eastern Nebraska*.—Nebraska points on and east of a line from the Missouri River at Running Water through, but not including Bloomfield, Randolph, to and including Norfolk, thence southeast to and including Scribner, Fremont, and thence through Linwood, Wahoo, Valparaiso, Lincoln, Crete, DeWitt, Beatrice, and Wymore to the Kansas state line, excluding Lincoln and Omaha.

No. 14B. *Central-Western Nebraska*.—Part of C. B. & Q. and C. & N. W. C. & N. W. Wyoming line to but not including Eli, Nebraska; C. B. & Q. Wyoming line to but not including Grand Island, Nebraska.

No. 15. *Arkansas*.—All of the state of Arkansas.

No. 16. *Oklahoma and Texas*.—All of the states of Oklahoma and Texas.

No. 17. *Kansas—Zone 1*.—That part of Kansas on, north and east of the following lines: Towns on and north of the C. R. I. & P. R. R. beginning at the Kansas-Colorado state line to Colby; thence on and north of the Union Pacific R. R. Plainville Branch to and

including Salina; thence southwest on and east of the Mo. Pac. R. R. to Marquette, thence an imaginary line southwest crossing the A. T. & S. F. R. R. west of Windom to and including Wherrey on the St. L.-S. F. R. R.; thence on and east of the St. L.-S. F. R. R. through Medora to the northern county line of Sedgwick County; thence east along the Sedgwick County line to the western county line of Butler County; thence south along the western boundary lines of Butler and Cowley Counties to the Oklahoma state line, excluding Cherokee County, the towns of Atchison and Leavenworth and that part of Wyandotte and Johnson Counties included in Market Area No. 1 (Greater Kansas City).

No. 18. *Atchison and Leavenworth*.—Switching limits of Atchison and Leavenworth, Kansas.

No. 19. *Southwest Kansas—Zone 2*.—That part of Kansas south and west of Market Area No. 17 except Sedgwick and Sumner Counties.

No. 20. *Kansas—Zone 3*.—Sumner and Sedgwick Counties, Kansas.

#### MINIMUM PRICE AREA No. 5—DISTRICT No. 15

##### PROPOSED MARKETING RULES AND REGULATIONS

A witness for District Board No. 15, properly qualified as an expert in the marketing of coal in that District, introduced into evidence as Exhibit No. 827, the rules and regulations proposed by District Board No. 15 in compliance with Commission Order No. 250. The witness testified that these rules and regulations were properly submitted to Code Members within said District and that no protests concerning such proposals were received from Code Members. Accordingly, these rules were adopted by the District Board and submitted to the Commission.

The witness stated that he agreed with the testimony of Mr. Brown, the expert witness for the Marketing Division of the Coal Commission, as to certain modifications, clarifications and deletions of the rules proposed by District Board No. 15, and it was his further opinion that, with the exception of the rule in Section IV of Exhibit No. 825 relating to limitation of contracts, the rules proposed by District Board No. 15 should be modified to conform to the rules contained in Exhibit No. 825, which, in the opinion of the witness, represented desirable clarifications, modifications and deletions of the rules proposed by the District Board.

Rule 1 E of Section VI of the rules proposed by District No. 15 provides that no contract shall be made for the delivery of coal for retailing at less than minimum prices in effect at the time of shipment. The witness testified that the District Board wanted this rule so as to confine the right of contract at a fixed price with industrial plants and to



prohibit the right to so contract with retailers. This rule makes an exception to the general rule proposed by the District Board which provides that contracts may be entered into for the sale of coal at prices not less than the minimum price in effect at the time of the making of the contract. We are of the opinion that such discrimination as to retail dealers is unwarranted and unreasonable.

The witness testified that District Board No. 15 was opposed to any rule limiting Code Members to thirty (30) day contracts for a period of time after the establishment of minimum prices. The witness testified that such a rule would not be desirable for District No. 15 and that it was necessary for Code Members within his District to enter into a contract for a period of twelve (12) months immediately upon the establishment of minimum prices. Except for this limitation of the right to contract contained in Rule 1 of Section IV of Exhibit No. 825 and except for the absence of any rule prohibiting Code Members from entering into contract with retailers at a fixed price, the witness was of the opinion that the rules contained in Exhibit No. 825 more clearly effectuated the purposes of the rules proposed by District Board No. 15. It is apparent from the testimony of the witness, and from the proposal of Rule III of Section VI of Exhibit No. 827, that the witness did not mean to include in his exceptions to the rules contained in Exhibit No. 825, the rules governing the quotations and options.

Rule 1 (b), Section IV of Exhibit No. 825, reads as follows:

"For deliveries thereafter, at not less than the applicable minimum prices in effect at the time of delivery."

The expert witness for the Marketing Division testified that this rule was written for the purpose of minimizing the injustice that might otherwise result from the privilege to make contracts in excess of thirty (30) days with governmental agencies that purchased through competitive bidding. We are of the opinion that the purposes of this rule will be better effectuated if the rule is modified to read as follows:

"For deliveries thereafter, at not less than the applicable minimum prices in effect at the time of delivery if such price is higher than the contract price."

Rule 1 (I), Section VII, of Exhibit No. 825, reads as follows:

"Where payment is made by note, trade acceptance or other form of indebtedness, or where payment is made under any circumstances after the due date of the account, the seller shall charge and the buyer shall pay interest at not less than the current market rate from and after the due date of the account."

We are of the opinion that this rule should be clarified to read as follows:

"Where payment is made by note, trade acceptance or other form of indebtedness, or where payment is made under any circumstances after the due date of the account, the seller shall charge and the buyer shall pay interest from and after the due date of the account at the current rate in the locality to which the coal is shipped to the vendee."

Rule 1, under "Advertising", Section XI of Exhibit No. 825, provides that no deduction or allowance from invoice prices shall be granted by any Code Member or his sales agent to any purchaser for advertising which would have the effect of reducing the invoice price below the applicable minimum price. District Board No. 15 in Exhibit No. 827 proposes a rule which prohibits any deduction or allowance whatsoever from invoice prices for advertising. We are of the opinion that such a rule better effectuates the purposes of the Act and that the similar rule contained in Exhibit No. 825 should be modified accordingly.

Rule 2 under "Advertising", Section XI of Exhibit No. 825, provides:

"The price and fair trade practice provisions of the Act shall not be evaded by any payment or allowance by any Code Member, his agent, or representative, to any purchaser or purchaser's representative covering advertising. The amount of expenditures incurred by a Code Member, his agent or representative, for advertising shall be subject to review by the Coal Commission as to the good faith of the transaction."

We are of the opinion that this rule should be modified to read as follows:

"Code Members (or their agents or representatives) either individually or collectively, with or without financial participation by retailers of coal, may conduct advertising campaigns seeking to increase the use of coal. The amount of expenditures incurred by a Code Member, his agent or representative for advertising shall be subject to review by the Coal Commission as to the good faith of the transaction."

Rule 1 under "Coal Confiscated or Lost in Transit", Section XI of Exhibit No. 825, provides:

"All coal confiscated or lost in transit shall be invoiced to the carrier at not less than the established minimum price therefor."

We are of the opinion that this rule should be clarified to read as follows:

"All coal confiscated or lost in transit shall be invoiced to the carrier at not less than the minimum price established for such coal for shipment to the destination and use to which the coal was sold or the established price for sale to the carrier at the place of confiscation or loss, whichever may be the higher."

The witness for the Marketing Division testified that Exhibit No. 825 con-

tained no rules relating to substitution or the crushing of coal. The witness further testified that the Exhibit is not to be construed as representing any modifications or deletions of such rules as they may have been proposed by various District Boards. District Board No. 15 proposed rules relating to substitution in Section X of Exhibit No. 827, and we are of the opinion that these rules are reasonable with the exception of the second paragraph of Rule 8 (e). This paragraph should be deleted as the provision contained therein is impractical to enforce.

The expert witness for the Marketing Division testified that in his opinion the rules contained in Exhibit No. 825 represented desirable clarifications and modifications of the rules proposed by the various District Boards and that such rules were reasonable, not inconsistent with the provisions of Section 4 of the Act, and were in conformance with the standards of fair competition contained in the Act.

With the exception of those rules which we have already stated should be modified, we are of the opinion that the rules contained in Exhibit No. 825 are in accordance with the standards governing Marketing Rules and Regulations contained in Section 4 II (a) of the Act. These rules, according to the testimony of the expert witness for District No. 15, are reasonable and it was the witness' opinion that the rules proposed by District Board No. 15 should be modified to conform to the rules contained in Exhibit No. 825 with the exception of the modifications and deletions hereinbefore discussed and as reflected in the composite findings herein-after given.

Accordingly, we find that the following rules and regulations incidental to the sale and disposition of coal by Code Members in District No. 15 are reasonable, not inconsistent with the requirements of Section 4 of the Act, and in conformance with the standards of fair competition established in the Act:

#### MARKETING RULES AND REGULATIONS INCIDENTAL TO THE SALE AND DISTRIBUTION OF COAL BY CODE MEMBERS WITHIN DISTRICT NO. 15 AS PROPOSED BY DISTRICT BOARD NO. 15 AND AS APPROVED, DISAPPROVED, OR MODIFIED FOR THE PURPOSE OF COORDINATION

##### Section I. Definitions

1. The term "person" as used herein, includes individuals, firms, associations, partnerships, corporations, trusts, trustees, cooperatives, receivers and trustees in bankruptcy and in other legal proceedings, and any other recognized forms of business organizations.

2. A "sales agent" is a person who, as agent of a code member (and therefore without purchasing the coal), sells coal produced by such code member for him or on his behalf: *Provided*, That "sales agent" shall not include an individual



(herein referred to as a "salesman") regularly and continuously employed by a code member, whose sole compensation is a stated salary per week, per month, or per year, and who regularly devotes the major portion of his time to the solicitation of purchases of coal produced by his code member employer.

3. A "commission" is the total of all compensations and allowances received by a sales agent from a code member for services rendered in the sale of coal.

4. A "registered distributor" is a person who has been duly registered by the Coal Commission pursuant to the rules and regulations prescribed by the Commission for the administration of Section 4 II (h) of the Act.

5. A "spot order" is a legal obligation for the sale and purchase of coal, the delivery of which is stipulated to be made within not more than thirty (30) days from the effective date of the order, such effective date to be not more than fifteen (15) days from the date upon which the order was accepted.

6. A "contract" is a legal obligation for the sale and purchase of coal, the deliveries of which are stipulated to be made during a period longer than the maximum period specified for a spot order.

7. A "quotation" is an offer to sell coal which the offeror may withdraw prior to its being acted upon by the offeree.

8. An "option" is an offer to sell coal acceptable within a time certain, during which time the offeror may not withdraw the offer without the consent of the offeree.

9. A "commitment" is the status of a contract between the time a quotation is accepted or an option is exercised and the time the contract is formally reduced to writing.

10. "Coal Commission" as used herein, shall mean the National Bituminous Coal Commission established under the provisions of the Bituminous Coal Act of 1937.

11. "Act" as used herein shall mean the Bituminous Coal Act of 1937.

12. "Retailing" is the buying of coal for resale and selling such coal in lots or upon conditions other than those which would entitle a person to be registered with the Coal Commission as a distributor under Section 4 II (h) of the Act.

13. "District Board" as used herein, shall mean any District Board established under the provisions of Section 4, Part I (a) of the Act.

14. "Statistical Bureau" shall mean, unless otherwise specifically stated, the Statistical Bureau of the Commission for the District in which the coal involved in any transaction is produced, or the District in which is located a mine of a code member affected by any order or regulation.

15. "Minimum Price" shall mean a minimum price established and made effective by the Coal Commission.

16. "Maximum Price" shall mean a maximum price established and made effective by the Coal Commission.

17. The term "producer" includes all individuals, firms, associations, corporations, trustees, and receivers engaged in the business of mining coal.

18. The terms "reconsignment" and "diversion" as used herein shall mean the change in the original consignee or in the destination or route.

19. The term "transportation facilities" means railroad cars, ships, barges, trucks, or any other facilities used or useful in the transportation of coal.

20. A "code member" means a producer who has accepted and holds membership in the Bituminous Coal Code promulgated under the Bituminous Coal Act of 1937.

21. The term "domestic market" shall include all points within the continental United States and Canada, and car-ferry shipments to the Island of Cuba. Bunker coal delivered to steamships for consumption thereon shall be regarded as shipped within the domestic market.

22. "Cargo shipment" is a quantity of coal loaded in a vessel, boat or barge for transportation via water.

23. "Bunker coal" or "vessel fuel" is that coal used aboard a boat or vessel for consumption thereon.

24. "Coal" as used herein shall mean bituminous coal.

25. The term "bituminous coal" includes all bituminous, semi-bituminous and sub-bituminous coal and shall exclude lignite, which is defined as a lignitic coal having calorific value in British thermal units of less than seven thousand six hundred per pound and having a natural moisture content in place in the mine of 30 per centum or more.

26. The term "control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership or voting securities, by contract, or otherwise.

## Section II. Sales Agents

1. All appointments of Sales Agents by Code Members or their agents or authorized representatives shall be subject to the Marketing Rules and Regulations from time to time established by the Coal Commission.

2. Each Code Member shall be responsible for the compliance by all his Sales Agents and agents and employees of Sales Agents and agents with the provisions of the Bituminous Coal Code and of all rules and regulations, promulgations and determinations of the Coal Commission.

3. Each Code Member shall require all his sales agents clearly to set forth upon any offer, contract, spot order, invoice, and statement of account covering coal sold or to be sold, the name of such Code Member principal, and the name of the mine or mines from which shipment was made or is to be made. If the name of

the sales agent also appears in the transaction, then the above mentioned forms shall also disclose the fact of agency relationship with the Code Member principal.

4. (A) Every contract for the appointment of a sales agent by Code Members or by agents or authorized representatives of Code Members, or any modification thereof, shall be in writing, and shall fully set forth therein all the terms and conditions of such contract, including the amount or basis of the sales agent's commission. Certified copies of all such agency contracts entered into on or prior to the effective date of the establishment of these rules and regulations and in effect on such date, shall be filed by the Code Member with the Statistical Bureau, or Bureaus, within twenty (20) business days after such date.

(B) Certified copies of all contracts appointing sales agents or of agreements modifying any sales agency contract, entered into subsequent to the effective date of these rules and regulations, shall be similarly filed by the Code Member within ten (10) business days after the date upon which such contracts or agreements have been entered into.

(C) Upon the expiration, termination, or rescission of any sales agency contract, the Code Member principal shall make a report thereof to the Statistical Bureau, or Bureaus, within ten (10) business days after the date of such expiration, termination, or rescission.

5. (A) As to all coal sold by a Code Member otherwise than through a sales agent or through an employee regularly employed as a salesman by the Code Member at his principal place of business or at a regularly established sales office, such Code Member shall, not later than the fifteenth day of each month, file with the Statistical Bureau, or Bureaus, a list of all persons through whom, directly or indirectly, any such coal was sold during the preceding calendar month, with a statement of the duration and character of their employment, the tonnage sold by, and the rate and amount of compensation paid to, each of them.

(B) Not later than the fifteenth day of each month, each Code Member shall also file with the Statistical Bureau, or Bureaus, similar information obtained from his sales agents concerning sales of coal made during the preceding calendar month, by the sales agents' representatives and employees other than salesmen employed at the principal place of business or a regularly established sales office of the sales agent.

(C) Not later than the fifteenth day of each month, each Code Member shall also file with the Statistical Bureau or Bureaus a statement showing the names and addresses of distributors to whom the Code Member or his sales agents sold coal during the preceding calendar month, the tonnage sold, and the



amount of discount allowed to each such distributor.

6. Within twenty (20) business days after the effective date of these rules and regulations, each Code Member shall file with the Coal Commission a list showing the names and addresses of all his sales agents. Upon any change in said list, the Code Member shall notify the Coal Commission within ten (10) business days after such change takes place.

7. A list showing the names and addresses of sales agents and the Code Members for whom such agents act shall be published monthly by the Coal Commission.

8. All agency contracts and other information filed by Code Members in conformity with the foregoing regulations, other than the names and addresses of sales agents, shall be held by the Coal Commission as the confidential records of said parties and shall not be made public without the consent of the Code Member from whom the same shall have been obtained, except where such disclosure is required in any proceeding before the Coal Commission by way of enforcement of the Act or upon the order of any court of competent jurisdiction.

9. From and after twenty (20) business days following the effective date of these Marketing Rules and Regulations no Code Member or sales agent of a Code Member shall allow or pay, directly or indirectly, any commission or compensation to any sales agent

(a) Unless the contract of agency shall have been filed with the Coal Commission, as hereinbefore required, and

(b) Unless the sales agent shall have agreed, in writing, with the Code Member to conform to and observe the minimum and maximum prices and Marketing Rules and Regulations established by the Coal Commission and the Fair Trade Practice Provisions of the Act, as well as all proper Orders of the Commission, and

(c) Unless the sales agent shall have in good faith complied with the agreement as in paragraph (b) above provided.

10. No commission shall be paid to a sales agent by a Code Member where the coal is delivered or sold to any person who owns such sales agent or who financially or otherwise controls such agent.

11. When any commissions are paid to a sales agent on a tonnage basis, the Code Member shall not include in the computation of such commissions any part of the tonnage of coal sold by him to the sales agent, whether for consumption or resale.

12. No Code Member shall employ any person or appoint any sales agent at a compensation obviously disproportionate to the ordinary value of the service or services rendered and whose employment or appointment is made with the primary intention and purpose of securing a preferment with a purchaser or purchasers of coal.

13. Subject to further order of the Coal Commission, the amount of commission to be paid by a Code Member to his sales agent shall be fixed by agreement of the parties, subject, however, that upon complaint of violation of the unfair methods of competition, as provided in the Act, the amount of such commission shall be subject to review by the Coal Commission.

#### Section III. Discounts

1. No Code Member or sales agent of a Code Member shall pay or allow any discount from minimum prices to any person unless such person has been registered by the Coal Commission as authorized to receive such discount at the time of the sale.

2. Code Members or their sales agents may allow discount from minimum prices or sales of coal to registered distributors, not in excess of the maximum discount or price allowance prescribed by the Coal Commission upon such sales. Only one such discount may be allowed on any such sale.

3. Except as expressly authorized in rules and regulations or orders promulgated by the Coal Commission, no Code Member or sales agent may grant or allow any discount or reduction, including any allowance for shipping on a Government Bill of Lading, from the applicable minimum prices upon the sale of coal to any person, including agencies of the Federal Government or agencies of state or local governments.

4. Every sale of coal to a distributor upon which a discount is allowed shall be made subject to the express condition that the distributor is authorized to receive the discount.

#### Section IV. Spot Orders

1. A spot order shall be in writing or confirmed in writing within five (5) business days from the date of the making thereof.

2. Each spot order shall be subject to the following conditions which shall either be endorsed upon the form of the order or upon the written confirmation thereof by the Code Member or his sales agent, the meaning and effect of which shall not be changed or altered by any other provision of the order:

"(a) No shipment consigned to any destination may be reconsigned or diverted without the consent of the seller to be confirmed in writing. In case of any reconsignment or diversion, the seller shall charge and the buyer shall pay not less than the applicable minimum price for such coal at the time of the reconsignment or diversion for delivery to the destination to which such shipment is actually delivered and for the use to which it is actually applied.

"(b) The coal shipped pursuant to this order is sold and purchased upon the following conditions:

"(1) If the coal is sold for consumption, it shall be used in the plant or

plants named herein and for the use stated herein;

"(2) In case of diversion by the buyer to a use other than that stated herein, the buyer shall notify the seller in writing and the seller shall charge and the buyer shall pay not less than the applicable minimum price for such coal at the time of diversion for the use to which it is actually applied.

"(c) If shipments called for by this order are not completed within thirty (30) days from the effective date of this order, the unfilled portion of the order shall not be delivered."

3. In any case where a sale is made by a sales agent of a Code Member, such sales agent shall not exercise the rights of the seller as defined in Item 2 (a) of this section without first securing the consent of his Code Member principal to be confirmed in writing.

4. All the terms and conditions of a sale of coal must be fully and expressly set forth either in the order or in the written confirmation thereof and such order or written confirmation thereof shall specifically contain all the terms required by Rule 1 of Section V of these Marketing Rules and Regulations. Within ten (10) business days after the date of the making of the spot order or date of the written confirmation thereof, the Code Member or his sales agent shall file with the Statistical Bureau or Bureaus a copy of such spot order or confirmation. Any modification of a spot order must also be made in writing and filed with the Statistical Bureau or Bureaus in the same manner.

5. All spot orders for the sale of coal, the minimum price of which is subject to seasonal increase, shall provide that the price payable thereunder shall not be less than the price to be in effect at time of delivery as established at the time of the making of the spot order.

#### Section V. Quotations, Options, and Contracts

Code Members or sales agents of code members may enter into contracts for the sale or delivery of coal at prices not less than the minimum price in effect at the time of the making of the contract, upon the following conditions:

1. Every contract shall be in writing and shall express the entire agreement between the parties. The contract shall clearly state the date of execution, the effective date, the expiration date, the price agreed upon, the terms of payment, the size and grade of coal, the number of cars or tonnage to be shipped, the name of the Code Member and the name of the originating mine, and, where the coal is purchased for consumption, the use to which the coal is to be applied. Contracts may also be made either (a) calling for a buyer's entire requirements or a stated percentage of his requirements, showing the maximum tonnage to be shipped thereunder, or (b) covering a buyer's requirements and stating the es-



timated tonnage to be shipped with an allowable overshipment of not exceeding ten (10) per cent of such estimated tonnage.

The provisions of the rule stated in the foregoing paragraph relating to quantity shall not apply to contracts made with agencies of the Federal, State or local governments in case the terms required to be submitted in a bid or offer for such contract are in conflict with such provisions.

2. No contract for the sale of coal shall provide for deliveries to commence at a date later than ninety (90) days from the date upon which such contract is entered into.

3. No contract shall be made at a price below the applicable minimum price as established by the Coal Commission at the time of the making of the contract for the coal to be sold thereunder, and no coal may be delivered upon a contract at a price below such applicable minimum price.

4. All contracts for the sale of coal the minimum price of which is subject to seasonal increase, shall provide that the price payable thereunder shall not be less than the price to be in effect at the time of delivery as established at the time of the making of the contract.

5. No contract shall provide for delivery over a period in excess of twelve (12) months except by special permission and approval of the Coal Commission, upon a showing of the necessity of meeting the long term contract competition of oil, gas, or other fuels or forms of power, or for such other reasons as the Commission may deem appropriate in order to further the effectual administration of the Act.

6. Any change in the terms of a contract, not in violation of these Rules and Regulations, shall be evidenced by a written agreement and shall conform to all the requirements set forth in these Rules and Regulations.

7. A report of every commitment shall be filed by the Code Member or his sales agent with the Statistical Bureau or Bureaus, within fifteen (15) business days from the date of the making of the agreement. Such report shall set forth all the terms and conditions of the commitment. A true copy of every contract and of any agreement for modification thereof shall be filed with the Statistical Bureau within fifteen (15) business days from the date of execution of such contract or agreement for modification: *Provided, however, that a report of the commitment need not be filed if a copy of the contract is filed within fifteen (15) business days.*

8. Each contract shall contain the following provisions, the meaning and effect of which shall not be changed or altered by any other provision of the contract:

"(a) This contract and the performance of all the provisions thereof are expressly subject to the Bituminous Coal Act of 1937 and the proper orders and regulations issued thereunder by the National Bituminous Coal Commission.

"(b) No shipment consigned to any destination point may be reconsigned or diverted without the consent of the seller to be confirmed in writing. In case of any reconsignment or diversion, the seller shall charge and the buyer shall pay not less than the applicable minimum price for such coal at the time of the reconsignment or diversion for delivery to the destination to which such shipment is actually delivered and for the use to which it is actually applied.

"(c) The coal shipped pursuant to this contract is sold and purchased upon the following conditions:

"(1) If the coal is sold for consumption, it shall be used in the plant or plants named herein and for the use stated herein;

"(2) In case of diversion by the buyer to a use other than that stated herein, the buyer shall notify the seller in writing and the seller shall charge and the buyer shall pay not less than the applicable minimum price for such coal at the time of diversion for the use to which it is actually applied."

9. In any case where a contract is made by a sales agent of a Code Member, such sales agent shall not exercise the rights of the seller as defined in item 8 (b) of this section without first securing the consent of the Code Member producing such coal to be confirmed in writing.

10. The making of a contract for the sale of coal at a price below the minimum or above the maximum therefor established by the Commission at the time of the making of the contract shall constitute a violation of the code and such contract shall be invalid and unenforceable.

11. No contract shall be made for the sale of coal for delivery after the expiration date of the Act at a price below the minimum or above the maximum therefor established by the Coal Commission and in effect at the time of making the contract.

12. Options for the sale of coal may be given for a period not exceeding fourteen (14) days. No options may be given at a price less than the applicable minimum price in effect at the time of the giving of the option. If the applicable minimum price is increased beyond the quoted price within such fourteen (14) days and the option shall not have been exercised at that time, the option thereupon shall become null and void: *Provided, however, that in connection with offers to sell to the United States Government, or States or political subdivisions thereof, options may be given for a period not exceeding forty-five (45) days from the date of the offer or from the final date for the filing of offers.*

13. Quotations may also be given for a period of not exceeding fourteen (14) days. If the applicable minimum price is increased beyond the quoted price within such fourteen (14) days and the quotation shall not have been accepted at that

time, the quotation thereupon shall become null and void.

14. Every quotation and option shall provide that it is made subject to the provisions of the Marketing Rules and Regulations of the Coal Commission.

15. All quotations and options must be made or confirmed in writing. Every Code Member, or his sales agent, shall require of his offeree that the acceptance of a quotation or the exercise of an option be in writing.

#### Section VI. Terms of Payment

1. The price and fair trade practice provisions of the Act shall not be evaded or violated by a Code Member, or his sales agent, through the use of terms of payment, and in no instance shall terms of payment be more favorable than the following:

(A) On rail, river, ex-river, or truck shipments, the date of payment of invoices for coal sold shall be on or before the twentieth day of the month following the month in which shipment was made.

(B) On tidewater cargo shipments the date of payment shall be not more than thirty (30) days from date of vessel bill of lading, and where coal is sold f. o. b. mines for tidewater cargo shipment, on or before the twentieth day of the month following the month in which the coal is dumped.

(C) Payment for all tidewater Bunker coal supplied for foreign vessels shall be by cash on delivery or by master's draft on owners in United States currency at not exceeding fifteen (15) days' sight at supplier's option. When drafts are accepted in payment, all bank charges for collection, exchange, etc., shall be for owner's account. Payment for tidewater bunker coal supplied for American vessels shall be made on or before the twentieth day of the month following delivery.

Payment for coal shipped for vessel fuel, and delivered into vessels at ports on the Great Lakes or tributary waters thereof, shall be made on or before the twentieth (20th) day of the month following such delivery.

(D) On lake cargo shipments, the date of payment shall be not more than sixty (60) days from the date of vessel bill of lading, and where coal is sold f. o. b. mines for lake cargo shipments, on or before the twentieth (20th) of the second month following the month in which dumped.

(E) On all coal sold to railroads, the date of payment shall be on or before the twenty-fifth (25th) day of the month following the date of shipment.

(F) Invoices shall be paid in full in United States currency, or funds equivalent thereto, not later than the due date.

(G) No portion of the sale price may be withheld by agreement between the buyer and the seller based upon any unadjusted claim of the buyer.



(H) No sale, delivery, or offer for sale of coal shall be made upon any condition, express or implied, that any portion of the sale price may be withheld by the buyer, or deposited in escrow, pending or based upon a determination of the constitutionality of any provision of the Act, of the jurisdiction of the Coal Commission, or the validity or applicability of any order of the Coal Commission.

(I) Where payment is made by note, trade acceptance or other form of indebtedness, or where payment is made under any circumstances after the due date of the account, the seller shall charge and the buyer shall pay interest from and after the due date of the account at the current rate in the locality to which the coal is shipped to the vendee.

(J) Freight on all-rail or ex-river shipments shall not be paid by a Code Member, or his sales agent, except to prepay stations as published in current railway tariffs or on shipments to the United States Government, States or political subdivisions thereof. Where freight is thus prepaid, the amount thereof shall immediately upon receipt of freight bill or notice of sight draft payment, be invoiced to the buyer for immediate payment.

(K) No Code Member shall accept as payment in full for any account for the sale of coal any amount which is less than the applicable minimum price for the quantity of coal involved. Provided, however, that a Code Member may enter into a bona fide general creditors' composition with other creditors of a defaulting purchaser. A copy of such creditor's composition shall be filed with the Statistical Bureau within ten (10) business days from the date of making such composition.

(L) The agreement by a Code Member, expressed or implied, to extend the credit for a period longer than that authorized by these rules and regulations, with the effect of violating the price provisions or the unfair methods of competition of the Act, shall constitute a violation of the Code.

#### Section VII. Use of Coal Analyses

1. Analyses of coal shall not be utilized by a Code Member, or his sales agent, in selling or offering for sale any coal produced by the Code Member, whether or not the analysis is a term in the offer or sale, unless such Code Member shall have filed with the Statistical Bureau and the District Board for the District in which the coal is produced, a report of the analysis or analyses as used or proposed to be used by him. Such report shall show the following:

- (a) The name of the Code Member Producer.
- (b) The name of the mine.
- (c) The name or geological number of the seam or seams from which the coal is produced.

(d) The name of the size, and, if screened, the dimension or dimensions of the screen or screens over and/or through which the coal is prepared.

(e) Whether the analysis is representative of the entire production of such size of coal, or whether it represents only a portion of such production segregated by selective mining, selective preparation, actual analyses made at the mine, or in any other manner.

(f) That such analysis is representative of the grade and size of the coal as regularly produced by the Code Member and as loaded directly into transportation facilities for shipment to market and that the Code Member is prepared to make deliveries of coal of substantially the quality and character as shown by the analysis.

(g) That each such analysis is not less than a proximate analysis showing moisture content, ash, volatile matter, fixed carbon, sulphur and British thermal units and ash softening temperature.

2. Every analysis used in selling, or offering for sale, any particular kind, quality, or size of coal shall be accompanied by a statement to the effect that a copy of such analysis has been properly filed with the Statistical Bureau, the Coal Commission and the District Board.

3. All reports of analyses so filed shall be subject to inspection at the office of the Statistical Bureau at any time during office hours by any interested person, and may be considered by the District Board and the Coal Commission in determining from time to time proper classifications of the coals produced by the Code Member.

4. A copy of any analysis of the coal of a Code Member made by or on behalf of a consumer and accepted by the Code Member as the basis for an adjustment of price under any contract or spot order shall be filed by the Code Member with the Statistical Bureau, the Coal Commission and the District Board, within five (5) business days after such adjustment is made.

5. From and after the effective date of these Rules and Regulations, no Code Member shall enter into or perform any agreement made upon a penalty or a premium and penalty basis which will permit the sale of coal at an aggregate contract price below the applicable minimum price established by the Coal Commission for the coal sold and delivered upon such agreement subsequent to said effective date: Provided, that where a Code Member has entered into an agreement made upon a penalty or a premium and penalty basis, this rule shall not be considered as affecting any claim that the buyer might otherwise have had for sub-standard preparation or quality under Section X of these Marketing Rules and Regulations.

#### Section VIII. Resale of Coal Refused in Transit or at Destination

1. Where coal is refused by a consignee in transit or at destination, the Code

Member may sell the same at the best obtainable price, provided that in each case the Code Member shall file with the Statistical Bureau, and the District Board for the District in which the coal was produced, within five (5) business days from the date of such resale, a statement giving the following information:

- (a) Name of consignee.
- (b) Address of the consignee.
- (c) Original destination of the coal.
- (d) Name of Code Member.
- (e) Originating mine.
- (f) The grade and size of coal shipped.
- (g) Price at which coal sold.
- (h) Reasons for the refusal.
- (i) Facts resulting from the investigation of the complaint.
- (j) Name of ultimate purchaser upon resale.
- (k) Address of purchaser upon resale.
- (l) Ultimate destination of the coal.
- (m) Price received by the seller upon resale.
- (n) Amount of commission, if any, paid upon the resale.
- (o) A copy of the carrier's notice of refusal or a notice of reconsignment and such other pertinent information and facts as may be offered in proof of the necessity for such resale.
- (p) A signed and verified statement that the provisions of the Code and the Marketing Rules and Regulations of the Coal Commission other than as to price have not been violated or evaded.

2. All Code Members shall properly furnish to the District Board and to the Statistical Bureau of the Coal Commission for the District in which the coal originated, full reports of all reconsignments, and shall authorize the carrier making such reconsignments to furnish complete information thereon to such Statistical Bureau.

#### Section IX. Substandard Preparation or Quality

1. Where any claim of allowance or counterclaim is requested by a buyer for any delivery of coal claimed to be substandard in preparation or quality, or where it is claimed by the buyer that due to an error on the part of the shipper the buyer has incurred additional and extraordinary expense in accepting the shipment, the Code Member or his sales agent may, within a reasonable time after delivery of the coal, make settlement and agree with the buyer upon an amount reasonably to be deducted for such inferior coal or on account of such error, and may accept payment therefor at less than the applicable minimum price: Provided, that in each such case the Code Member shall within five (5) business days after granting such allowance file with the District Board and the Statistical Bureau of the Coal Commission a verified statement giving the following information:

- (a) The name and address of the consignee and the reason for the request for the allowance.



(b) The price at which the coal was sold, the tonnage delivered, the name of the mine, the Code Member, the date of shipment, the grade and size of coal, the destination, and the amount of allowance or adjustment made.

(c) Such other pertinent information and facts as may be offered in proof of the necessity for such reduction or allowance.

(d) A statement that the adjustment has not been made with the purpose or intent of evading the price provisions of the Act.

The Code Member shall also file, together with the statement, a written claim duly executed by or on behalf of the buyer and verified by affidavit, setting forth the amount claimed by way of deduction and the reasons for the complaint.

2. All such adjustments and allowances shall be subject to review by the Coal Commission.

#### Section X. Miscellaneous General

1. The minimum prices established by the Commission shall not apply to coal sold and shipped outside the domestic market as defined in the Act and in these Marketing Rules and Regulations.

2. Maximum prices established by the Commission shall not apply to coal sold and shipped outside the continental United States.

3. No coal shall be sold or delivered or offered for sale at a price below the minimum or above the maximum therefore established by the Commission, and the sale or delivery or offer for sale of coal at a price below such minimum or above such maximum shall constitute a violation of the Code; Provided, that the provisions of this paragraph shall not apply to a lawful and bona fide written contract entered into prior to June 16, 1933, which has been filed with the Coal Commission.

4. If, in converting a net or gross ton price, freight rate or freight rate differential, the calculation extends to more than 3 decimals, and the 4th decimal is .0005 or more, it shall be added as .001, and if under .0005 it shall be eliminated.

5. All coal shall be sold and invoiced on a price per ton basis, and all coal must be sold and invoiced under the size, price classification and other designation therefor in the price schedule published by the Coal Commission.

6. Failure to file information required by these Marketing Rules and Regulations or the filing of false information, wilfully made, will subject the party failing to file the information required, or the party so filing, to the penalties of the Act and other penalties imposed by law.

#### Advertising

1. No deduction or allowance from invoice prices shall be granted by any code member or his sales agent to any purchaser for advertising.

2. Code members (or their agents or representatives) either individually or

collectively, with or without financial participation by retailers of coal, may conduct advertising campaigns seeking to increase the use of coal. The amount of expenditures incurred by a code member, his agent or representative for advertising shall be subject to review by the Coal Commission as to the good faith of the transaction.

#### Screening for Buyer's Account

1. The screening of mine run or re-screening of other grades of coal, sold and billed as such, for the buyer's account for the purpose of keeping the resultant products separate in the shipment thereof is prohibited.

#### Coal Confiscated or Lost in Transit

1. All coal confiscated or lost in transit shall be invoiced to the carrier at not less than the minimum price established for such coal for shipment to the destination and use to which the coal was sold or the established price for sale to the carrier at the place of confiscation or loss, whichever may be the higher.

#### Revision of Marketing Rules and Regulations

1. These Marketing Rules and Regulations are subject to revision and amendment by further order of the Coal Commission.

#### Penalties

#### Section 5 (b) of Bituminous Coal Act:

The membership of any such coal producer in such code and his right to an exemption from the taxes imposed by section 3 (b) of this Act, may be revoked by the Commission upon written complaint by any code member or district board, or any State or political subdivision of a State, or the consumers' counsel, after a hearing, with thirty days' written notice to the member, upon proof that such member has wilfully violated any provision of the code or any regulation made thereunder; and in such a hearing any code member or district board, or any State or political subdivision of a State, or the consumers' counsel, or any consumer or employee, and the Commissioner of Internal Revenue, shall be entitled to present evidence and be heard: Provided, that the Commission, in its discretion, may in such case make an order directing the code member to cease and desist from violations of the code and regulations made thereunder and upon failure of the code member to comply with such order the Commission may apply to a circuit court of appeals to enforce such order in accordance with the provisions of subsection (c) of section 6 or may reopen the case upon ten days' notice to the code member affected and proceed in the hearing thereof as above provided.

#### Section 5 (c) of Bituminous Coal Act:

Any producer whose membership in the code and whose right to an exemption from the tax imposed by section 3 (b) of this Act shall have been revoked and canceled may apply to the Commission and shall have the right to have his membership in the code restored upon payment by him to the United States of double the amount of the tax provided in section 3 (b) upon the sales price at the mine, or the market value at the mine if disposed of otherwise than by sale at the mine, or if sold otherwise than through an arms' length transaction, of the coal sold or disposed of by the code member in violation of the code or regulations thereunder (but in no case shall such sales price or market value be taken to be less than the minimum

price established by the Commission for such coal and in effect at the time of such sale or other disposal), as found by the Commission under subsection (b) hereof. The Commission shall thereupon certify to the Commissioner of Internal Revenue and to the collector of internal revenue for the internal revenue collection district in which the producer resides the amount of the required payment as found under clause (5) of subsection (b), and upon payment of such amount to the Commissioner or the collector such officer shall notify the Commission thereof.

#### Section 10 (c) of Bituminous Coal Act:

If any producer required by this Act or the code or regulation made thereunder to file a report shall fail to do so within the time fixed for filing the same, and such failure shall continue for fifteen days after notice of such default, the producer shall forfeit to the United States the sum of \$50 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States, brought in the district where the producer has his principal office or in any district in which he shall do business. It shall be the duty of the various district attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of forfeiture.

Section 35 of the Criminal Code as amended by the Act of June 18, 1934, c. 587, 48 Stat. 996 (U. S. C., Title 18, sec. 80):

Whoever shall make or cause to be made or present or cause to be presented, for payment or approval, to or by any person or officer in the civil, military, or naval service of the United States, or any department thereof, or any corporation in which the United States of America is a stockholder, any claim upon or against the Government of the United States, or any department or officer thereof, or any corporation in which the United States of America is a stockholder, knowing such claim to be false, fictitious, or fraudulent; or whoever shall knowingly and wilfully falsify or conceal or cover up by any trick, scheme, or device a material fact, or make or cause to be made any false or fraudulent statements or representations, or make or use or cause to be made or used any false bill, receipt, voucher, roll, account, claim, certificate, affidavit, or deposition, knowing the same to contain any fraudulent or fictitious statement or entry, in any matter within the jurisdiction of any department or agency of the United States or of any corporation in which the United States of America is a stockholder shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

Section 37 of the Criminal Code (U. S. C. 88):

If two or more persons conspire either to commit any offense against the United States, or to defraud the United States in any manner or for any purpose, and one or more of such parties do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be fined not more than \$10,000, or imprisoned not more than two years, or both. (R. S. § 5440; May 17, 1879, c. 8, 21 Stat. 4; Mar. 4, 1909, c. 321, § 37, 35 Stat. 1086)

#### CONCLUSION

It is the conclusion of the Commission that the schedules of proposed minimum prices and marketing rules and regulations submitted to the Commission by the District Boards for Districts Nos. 14 and 15, as amended, corrected, modified or revised, conform to the requirements of Section 4 II (a) of the Act and



the same, as amended, corrected, modified, or revised, are hereby approved to serve as a basis for the coordination as provided in Section 4 II (b) of the Act. By the Commission.

[SEAL] PERCY TETLOW,  
Chairman.

Dated this 17th day of December, 1938.

[F. R. Doc. 38-3837; Filed, December 20, 1938; 12:16 p. m.]

### Notices

#### SECURITIES AND EXCHANGE COMMISSION.

##### *United States of America—Before the Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 19th day of December 1938.

[File No. 1-2416]

IN THE MATTER OF PROVINCE OF BUENOS AIRES (ARGENTINE REPUBLIC) 6% RE-FUNDING EXTERNAL SINKING FUND GOLD BONDS, DUE MARCH 1, 1961, (UNSTAMPED)

#### ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 (b) promulgated thereunder, having made application to strike from listing and registration the 6% Re-funding External Sinking Fund Gold Bonds, due March 1, 1961, (Unstamped) of Province of Buenos Aires (Argentine Republic); and

After appropriate notice, a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on December 29, 1938.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 38-3849; Filed, December 21, 1938; 10:51 a. m.]

##### *United States of America—Before the Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 19th day of December, A. D. 1938.

[File No. 63-1]

#### IN THE MATTER OF THE APPLICATION OF THE UNITED CORPORATION

##### ORDER ALLOWING PETITION TO INTERVENE

The United Corporation, a registered holding company, having filed an application pursuant to Rule U-9C-4 of the Public Utility Holding Company Act of 1935 for approval of an investment program of said applicant, and a petition for leave to intervene in said matter having been filed by Fidelity-Philadelphia Trust Company, Girard Trust Company, Provident Trust Company, The Pennsylvania Company for Insurances on Lives and Granting Annuities, The Insurance Company of North America, Alliance Insurance Company, Philadelphia Fire and Marine Insurance Company, and Indemnity Insurance Company of North America, and it appearing from said petition that each of the aforesaid petitioners is, either in its corporate capacity or in a fiduciary capacity as trustee or agent, the owner of shares of preferred stock (and as to certain of said petitioners, of common stock) of The United Corporation, applicant herein; and

The Commission having heard oral arguments upon said intervening petition, having considered the merits of said petition for leave to intervene and the objections advanced thereto, it appearing to the Commission that the petitioners are security holders with an interest in the subject matter of these proceedings, and said petitioners having at said oral argument waived any right to introduce evidence not already in the record and having waived any right to oral argument in this proceeding, and the Commission being fully informed in the premises;

It is hereby ordered, That the intervening petition of said Fidelity-Philadelphia Trust Company, Girard Trust Company, Provident Trust Company, The Pennsylvania Company for Insurances on Lives and Granting Annuities, The Insurance Company of North America, Alliance Insurance Company, Philadelphia Fire and Marine Insurance Company, and Indemnity Insurance Company of North America to be made parties to the said proceeding be and the same is hereby granted subject to all proceedings heretofore taken herein, and subject to the waiver by said petitioners of any right to introduce evidence not already in the record and subject to the waiver by said petitioners of any right to oral argument in this proceeding.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 38-3848; Filed, December 21, 1938; 10:51 a. m.]

##### *United States of America—Before the Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its

13 F. R. 2842 DI.

office in the City of Washington, D. C., on the 19th day of December 1938.

IN THE MATTER OF ROBERT E. LANCASTER AN ALIAS USED BY MARTIN A. LEACH AND ROBERT E. LANCASTER & COMPANY, INC., 110 EAST 42ND STREET, NEW YORK, NEW YORK

#### ORDER FOR PROCEEDINGS AND NOTICE OF HEARING ON THE QUESTION OF REVOCATION AND/OR SUSPENSION OF REGISTRATION

Robert E. Lancaster filed with the Commission on March 6, 1936, an application for registration on Form 1-M pursuant to Rule MA2 of the Rules then governing the over-the-counter markets adopted by the Commission under Sections 15 and 23 of the Securities Exchange Act of 1934; registration became effective on March 18, 1936, in accordance with the Commission's Rules, and by virtue of Section 10 of the Act of Congress approved May 27, 1936, providing for the registration of over-the-counter brokers and dealers, Robert E. Lancaster became registered and is registered under Section 15 (b) of the Securities Exchange Act of 1934, as amended; and

Robert E. Lancaster & Company, Inc., a New York Corporation, filed with the Commission on April 29, 1936, an application for registration on Form 1-M pursuant to Rule MA2 of the Rules aforementioned, and on June 11, 1936, filed a request that the said application be considered as an application for registration as a broker and dealer pursuant to the Securities Exchange Act of 1934, as amended, and the Rules and Regulations adopted by the Commission thereunder; the said application and request were executed on behalf of the corporation by Robert E. Lancaster, its president and one of its directors; registration of said corporation pursuant to Section 15 (b) of the Securities Exchange Act of 1934, as amended, became effective on July 11, 1936 and is still in effect.

The Commission has reasonable grounds to believe:

(1) That the said Robert E. Lancaster is Martin A. Leach who was convicted on or about January 28, 1929, in the State of California of a certain felony or misdemeanor involving the purchase or sale of securities or arising out of the conduct of the business of a broker or dealer and who, until November, 1938, was a fugitive from justice in California on the said conviction.

(2) That the said Martin A. Leach using the name of Robert E. Lancaster, willfully made certain statements which were, at the time and in the light of the circumstances under which they were made, false and misleading with respect to material facts in his application for registration, to wit;

(a) Under Item 20, that he had not within the last ten years been convicted of any felony or misdemeanor involving the purchase or sale of securities or arising out of the conduct of the business of



a broker or dealer; whereas, in truth and in fact, as he well knew, he had been so convicted as alleged in paragraph 1 above;

(b) Under Item 22 that he had not used or been known by any name other than Robert E. Lancaster; whereas, in truth and in fact, as he well knew, his real name is Martin A. Leach, and is the person referred to in paragraph 1 above.

(3) That the said Martin A. Leach, using the name Robert E. Lancaster, willfully made and caused to be made in the aforementioned application for registration filed by Robert E. Lancaster & Company, Inc., a New York Corporation, certain statements which were at the time and in the light of the circumstances under which they were made, false or misleading with respect to material facts, to wit:

(a) Under Item 20, that Lancaster, one of the persons named under Item 6 of the application, had not within the last ten years been convicted of any felony or misdemeanor involving the purchase or sale of securities or arising out of the conduct of the business of a broker or dealer; whereas, in truth and in fact, as he well knew, he had been convicted as alleged in paragraph 1 above.

(b) Under Item 22, that Lancaster, one of the persons named under Item 6 of the application, had not used or been known by any name other than Robert E. Lancaster; whereas, in truth and in fact, as he well knew, his real name is Martin A. Leach, the person referred to in paragraph 1 above.

(4) That Robert E. Lancaster (whose real name is Martin A. Leach) is enjoined by decree of the Court of Chancery of the State of New Jersey entered on or about October 15, 1936, from engaging in or continuing certain conduct or practices in connection with the purchase and sale of securities;

(5) That Robert E. Lancaster & Company, Inc., is permanently enjoined by decree of the Supreme Court of the State of New York, County of New York, entered on or about October 20, 1938, from engaging in or continuing certain conduct or practices in connection with the purchase and sale of securities.

(6) That Robert E. Lancaster is enjoined by decree of the Supreme Court of the State of New York, County of Kings, entered on or about May 13, 1935, from engaging in or continuing certain conduct or practices in connection with the purchase and sale of securities.

(7) That it is in the public interest to revoke or suspend registration.

The Commission being of the opinion that it is necessary and appropriate in the public interest and for the protection of investors that proceedings be instituted for the purposes below provided:

*It is ordered*, That proceedings be held to determine whether the registrations

of the said Robert E. Lancaster (whose real name is Martin A. Leach) and Robert E. Lancaster & Company, Inc., should be revoked or suspended pursuant to the provisions of Section 15 (b) of the Securities Exchange Act of 1934, as amended.

*It is further ordered*, That a hearing for the purpose of taking testimony begin on January 24, 1939, at 10:30 A. M. at the Commission office, 120 Broadway, New York, New York, and that the said hearing be continued at such other time or place as the Commission or the officer conducting such hearing may determine; that for the purpose of said hearing Adrian C. Humphreys be and he is hereby designated as the officer of the Commission to administer oaths and affirmations, subpoena witnesses and compel their attendance, take evidence, require the production of books, papers, correspondence, memoranda and any and all other records deemed relevant or material to the matters in issue at said hearing, and to perform all other duties in connection therewith as authorized by law.

*It is further ordered*, That this order and notice be served on Martin A. Leach, alias Robert E. Lancaster and Robert E. Lancaster & Company, Inc., personally or by registered mail not less than seven (7) days prior to the time of said hearing or in the event of failure to serve registrants personally or by registered mail that this order and notice be published in the *FEDERAL REGISTER* in the manner prescribed by the Federal Register Act.

Upon the completion of the taking of testimony in this matter, the officer conducting said hearing is directed to conclude said hearing, make his report to the Commission, and transmit same with a record of the hearing to the Commission. By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 38-3853; Filed, December 21, 1938;  
10:52 a. m.]

#### *United States of America—Before the Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 19th day of December 1938.

IN THE MATTER OF McCORD RADIATOR AND MANUFACTURING COMPANY 15-YEAR SINKING FUND 6% GOLD DEBENTURES, DUE FEBRUARY 1, 1943, STAMPED TO INDICATE, AMONG OTHER THINGS, EXTENSION OF MATURITY DATE TO FEBRUARY 1, 1948 IN ACCORDANCE WITH "SUPPLEMENTAL AGREEMENT" DATED JULY 31, 1938

#### ORDER GRANTING APPLICATION

Continuance of unlisted trading privileges on the New York Curb Exchange

in the 6% 15-Year Sinking Fund Debenture Gold Bonds, due February 1, 1943, of McCord Radiator and Manufacturing Company having been permitted by action of this Commission on October 1, 1934; and

Said Exchange, pursuant to paragraph (b) of Rule X-12F-2, having applied to this Commission setting forth that there are being effected changes in said security other than those specified in paragraph (a) of said Rule and asking the Commission to determine that said security after said changes is substantially equivalent to the said security heretofore admitted to unlisted trading privileges; and

The Commission having considered the matter;

*It is ordered*, Pursuant to Section 12 (f) and 23 (a) of the Securities Exchange Act of 1934, as amended, and Rule X-12F-2 (b) promulgated thereunder, that the determination sought by said application is made and the application is hereby granted.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 38-3850; Filed, December 21, 1938;  
10:51 a. m.]

#### *United States of America—Before the Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 20th day of December, A. D. 1938.

[File No. 43-175]

IN THE MATTER OF NEW YORK AND RICHMOND GAS COMPANY

#### NOTICE OF AND ORDER FOR HEARING

A declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party:

*It is ordered* That a hearing on such matter be held on January 11, 1939, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, N.W., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

*It is further ordered*, That Willis R. Monty or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to



continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before January 6, 1939.

The matter concerned herewith is in regard to a declaration, filed by New York and Richmond Gas Company, a subsidiary of Washington and Suburban Companies, a registered holding company, regarding the reduction of the capital represented by its 150,000 shares of common stock from \$1,500,000 to \$850,000, without reducing the number of shares outstanding.

The declaration states that the reduction will be effected in the manner prescribed by the laws of the State of New York (including approval by the Public Service Commission of the State of New York), under the laws of which State the declarant is organized.

In addition to the common stock, the declarant has outstanding 19,302 shares of \$100 par 6% Cumulative Preferred Stock, and \$2,125,000 principal amount of First Refunding Mortgage 6% Bonds dated May 1, 1921, and maturing May 1, 1951.

It is stated that such reduction of capital must be approved by a vote of two-thirds of the outstanding stock of the declarant.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 38-3851; Filed, December 21, 1938;  
10:51 a. m.]

*United States of America—Before the  
Securities and Exchange Commission*

At a regular session of the Securities  
and Exchange Commission, held at its  
No. 248—7

office in the City of Washington, D. C.,  
on the 20th day of December, A. D. 1938.

[File No. 55-12]

IN THE MATTER OF ADAMS, NELSON &  
WILLIAMSON

NOTICE AND ORDER CHANGING OFFICER TO  
PRESIDE AT HEARING AND DATE OF HEAR-  
ING

The Commission having heretofore, on November 30, 1938, designated Richard Townsend, an officer of the Commission, to preside at a hearing ordered to be held in the matter of the application of Adams, Nelson & Williamson in Room 1101, Securities and Exchange Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., on December 28, 1938, at 10:00 A. M.;

It is ordered, That such order of the Commission designating Richard Townsend as an officer to preside at such hearing and fixing the above-named date and place for such hearing is hereby rescinded; and

It is further ordered, That the hearing in this matter be held in Room 1102, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue, N. W., Washington, D. C., on January 9, 1939, at 10:00 A. M.; and

It is further ordered, That Charles S. Lobingier, an officer of the Commission be, and he hereby is, designated to preside at any such hearing and authorized to exercise all powers granted to the Commission under section 18 (c) of the Public Utility Holding Company Act of 1935 and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 38-3852; Filed, December 21, 1938;  
10:52 a. m.]

13 F. R. 2818 DI.

UNITED STATES MARITIME COMMISSION.

IN THE MATTER OF APPLICATION OF AMERICAN EXPORT LINES, INC. FOR REDUCTION IN MINIMUM MANNING SCALES FOR CERTAIN OF ITS VESSELS

ORDER FOR HEARING

At a regular session of the United States Maritime Commission, held at its office in Washington, D. C., on the 20th day of December 1938.

Application having been made to the Commission by the American Export Lines, Inc., for a hearing to consider changes in the minimum manning scales for the engine departments of the steamship *Extavia*, *Exmouth*, *Examelia*, *Executive* and *Exhibitor*, and it appearing from said application that said vessels have been altered so as to reduce their power-tonnage from that of Class C to that of Class D, it is hereby

Ordered that a hearing be held upon the application of the American Export Lines, Inc., to determine whether a change should be made in the minimum manning scales for the engine departments of said steamships; and it is further

Ordered that said hearing be conducted by Daniel S. Ring, an officer of this Commission, to commence at 10 a. m., January 4, 1939, at the offices of the Commission, 45 Broadway, New York City, and at such other times and places as said officer may designate; and it is further

Ordered that at the conclusion of said hearing said officer shall submit the record of said hearing, together with his report and recommendations thereon, to the Commission; and it is further

Ordered that public notice of this Order be given by publication in the FEDERAL REGISTER and by posting in the office of the Commission at 45 Broadway, New York City, for at least ten (10) days before the date of the hearing ordered herein.

By the Commission.

[SEAL] W. C. PEET, JR.  
Secretary.

[F. R. Doc. 38-3856; Filed, December 21, 1938;  
12:01 p. m.]



